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Monday
November 30, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Denver, CO, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DENVER, CO

WHEN: December 15; at 9 a.m.
WHERE: Room 239, Federal Building, 1961 Stout Street, Denver, CO.
RESERVATIONS: Call the Denver Federal Information Center, 303–844–6575

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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Regional Office; Address Change

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This document amends Appendix A, paragraph (d)(8) (45 FR 3522) of the rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 5 CFR Part 2400 *et seq.*, (1987) to establish a new room number and mailing address for the Authority's Los Angeles Regional Office. The Los Angeles Regional Office telephone numbers have not been changed.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald J. Watkins, Deputy to the General Counsel (202) 382-0744.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority, General Counsel and Panel published at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code (5 CFR Part 2400 *et seq.* (1987)). These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1987). Appendix A, paragraph (d) of the foregoing rules and regulations sets forth office addresses and telephone numbers of the Regional Directors of the Authority. This amendment sets forth the new room number and mailing address of the Los Angeles Regional Office of the Authority. The Los Angeles Regional Office telephone numbers have not been changed. Accordingly, in Appendix A to Chapter XIV, paragraph (d)(8) of the Authority, General Counsel, and Panel rules and regulations (5 CFR Part 2400 *et seq.* (1987)) is revised to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(8) *Los Angeles Regional Office*—350 South Figueroa Street, Suite 370, Los Angeles, California 90071, Telephone: FTS—798-3805, Commercial—(213) 688-3805

(5 U.S.C. 7134)

Dated: November 18, 1987.

John C. Miller,

General Counsel, Federal Labor Relations Authority.

[FR Doc. 87-27343 Filed 11-27-87; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 405

[Doc. No. 5006S]

Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of Extension of Sales Closing Date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for apple crop insurance in all counties wherein such insurance is offered, effective for the 1988 crop year only. This action is necessary because the policy for insuring apples has recently been provided to agents leaving an insufficient amount of time for marketing purposes. Therefore, additional time for applications to be accepted is being provided accordingly. The intended effect of this notice is to advise all interested parties of the extension of the sales closing date and to compy with the provisions of the apple crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR § 405.7, the closing date for accepting applications for apple crop insurance in all counties is November 20.

Because of the delay in providing agents with current policy provisions resulting in a foreshortened marketing period, FCIC is extending the sales closing date in all counties where apple crop insurance is offered.

Under the provisions of 7 CFR 405.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 405.7, the Federal Crop Insurance Corporation herewith gives notice that the sales closing date for accepting applications for apple insurance in all counties where such insurance is offered, is hereby extended through the close of business on December 4, effective for the 1985 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, DC, on November 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-27352 Filed 11-27-87; 8.45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 661]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 661 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period November 27 through December 3, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation l661 (§ 907.961) is effective for the period November 27 through December 3, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2528–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained herein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987–88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on November 24, 1987, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, by a 7 to 4 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market for navel oranges is stabilizing.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary noticed and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and Orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.961 is added to read as follows:

§ 907.961 Navel Oranges Regulation 661.

The quantity of navel oranges grown in California and Arizona which may be handled during the period November 27, 1987, through December 3, 1987, are established as follows:

(a) *District 1*: 1,739,000 cartons;
(b) *District 2*: Unlimited cartons;
(c) *District 3*: 111,000 cartons;
(d) *District 4*: Unlimited cartons.

Dated: November 25, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–27590 Filed 11–27–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 589]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 589 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period November 29 through December 5, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 589 (§ 910.889) is effective for the period November 29 through December 5, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that

this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on November 24, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.889 is added to read as follows:

§ 910.889 Lemon Regulation 589.

The quantity of lemons grown in California and Arizona which may be handled during the period November 29 through December 5, 1987, is established at 300,000 cartons.

Dated: November 25, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–27589 Filed 11–27–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 1024–87]

Nonimmigrant Classes; Requirements for Admission, Extension, and Maintenance of Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rulemaking revises the documentary requirements for submission of an application for extension of stay by an alien temporarily in the United States. Existing regulations require that an alien's passport be valid for at lease six months beyond the date on which he or she intends to depart from the United States. Under this rulemaking the alien will be required to certify at the time of application for extension that the passport is valid and that he or she will maintain the validity of the passport throughout his or her stay. The alien will no longer be required to establish that the passport is valid for six months beyond the anticipated departure date.

EFFECTIVE DATE: December 30, 1987.

FOR FURTHER INFORMATION CONTACT: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Section 212(a)(26) of the Immigration and Nationality Act of 1952 ("the Act") requires that a nonimmigrant alien seeking admission to the United States be in possession of "a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period." By regulation, at 8 CFR 214.1(a), the Immigration and Naturalization Service ("the Service") had required that an alien filing an application for extension of nonimmigrant stay also be in possession of a passport valid for a minimum of six months from the expiration date of the contemplated stay, unless otherwise provided.

On June 15, 1987 the Service proposed at 52 FR 22661 that the requirement relating to applications for extension of stay be changed so that the alien would be required to be in possession of a valid passport at the time of application and would be required to maintain the validity of the passport throughout his or her stay in the United States, but would no longer be required to be in possession of a passport valid for six months beyond the anticipated departure date. The Service invited interested parties to submit comments not later than July 15, 1987.

The Service received a total of seven comments from the public on the proposed rulemaking. All but one of the commenters were in favor of the proposal. The lone dissenter was under the mistaken impression that under the existing regulation it is the responsibility of the Service to obtain an extension of passport validity on behalf of the alien, and that the purpose of the proposed rulemaking was to shift this burden from the Service to the alien. Obtaining an extension of passport validity always has been, and will continue to be, the responsibility of the alien. The rulemaking merely relieves the alien of the requirement to be in possession of a passport valid for six months beyond the date to which he or she seeks an extension of stay in the United States. The alien will still be responsible for ensuring that his passport remains valid throughout his stay in the United States.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not

a major rule within the meaning of section 1(b) of Executive Order 12291.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act, under control number 1115-0087.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Labor unions, Reporting and recordkeeping requirements, Schools, Students, Travel restrictions.

Accordingly, Chapter I of Title 8 Code of Federal Regulations is amended as follows:

PART 214—[AMENDED]

1. The authority citation for Part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184.

2. In § 214.1, paragraph (a) is revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) *General.* Every nonimmigrant alien who applies for admission to, or an extension of stay in, the United States, shall establish that he or she is admissible to the United States, or that any ground of inadmissibility has been waived under section 212(d)(3) of the Act. Upon application for admission, the alien shall present a valid passport and valid visa unless either or both documents have been waived. However, an alien applying for extension of stay shall present a passport only if requested to do so by the Service. The passport of an alien applying for admission shall be valid for a minimum of six months from the expiration date of the contemplated period of stay, unless otherwise provided in this chapter, and the alien shall agree to abide by the terms and conditions of his or her admission. The passport of an alien applying for extension of stay shall be valid at the time of application for extension, unless otherwise provided in this chapter, and the alien shall agree to maintain the validity of his or her passport and to abide by all the terms and conditions of his extension. The alien shall also agree to depart the United States at the expiration of his or her authorized period of admission or extension, or upon abandonment of his or her authorized nonimmigrant status. At the time a nonimmigrant alien applies for admission or extension of stay he or she shall post a bond on Form I-352 in the sum of not less than $500, to insure the maintenance of his or her nonimmigrant status and departure from the United States, if required to do so by the director, immigration judge, or Board of Immigration Appeals.

* * * * *

Dated: November 16, 1987.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 87-27474 Filed 11-27-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 031CE, Special Conditions No. 23-ACE-29]

Special Conditions; Piaggio Model P-180 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Piaggio Model P-180 series airplanes. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness requirements in Part 23 of the Federal Aviation Regulations (FAR). The novel and unusual design features are associated with the use of advanced composite materials for primary flight structure, the location of the propellers, forward wing (canard) configuration, and an outward opening, main entry door in the pressurized cabin for which the regulations do not contain adequate or appropriate safety standards. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that envisioned in the applicable regulations.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Oscar E. Ball, Aerospace Engineer, ACE-112, Standards Office, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, MO 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1983, Rinaldo Piaggio, S.p.A. made application for a type certificate through Registro Aeronautico Italiano (RAI) to the FAA Brussels Office for the Model GP-180, and submitted a revised application changing the model designation to Model P-180 on November 12, 1986.

The Model P-180 is a small, normal category, 9-passenger airplane with a partially composite-structure airframe, forward wing (canard) with aftmounted, T-tail configuration, laminar flow wing and twin turboprop engines that are main-wing-mounted with pusher propellers aft of the main wing trailing edge.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, will be adopted and issued after public notice, in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, in accordance with § 21.17(a)(2).

The type design of the Model P-180 airplane contains a number of novel or unusual design features with respect to the state of technology envisaged by the applicable Part 23 airworthiness standards for an airplane to be type certificated under Part 23 requirements. Special conditions are adopted because the airworthiness requirements do not contain adequate or appropriate safety standards for the novel and unusual design features of the Model P-180 airplane.

Type Certification Basis

The certification basis for the Piaggio Model P-180 airplane is 14 CFR, Part 21, § 21.29; 14 CFR, Part 23, effective February 1, 1965, including amendments 23-1 through 23-33; Special Federal Aviation Regulations No. 27, effective February 1, 1974, including amendments 27-1 through 27-5; 14 CFR, Part 36, effective December 1, 1969, including amendments 36-1 through amendment effective on the date of type certification; exemptions, if any; and these special conditions.

Discussion of Comments

One comment responded to Notice No. 23-ACE-29 published in the **Federal Register** on August 31, 1987. The closing date for comments was September 30, 1987.

The commenter, Piaggio, presented two comments in the nature of corrections to the notice. The first comment pointed out that Piaggio's revised application dated November 12,

1986, had revised the type certification basis, in part, from "* * * Part 23 * * * Amendments 23–31 through 23–30 * * *" to "* * * Part 23 effective February 1, 1965, including Amendments 23–1 through 23–33 * * *" The FAA agrees and has made the correction in the type certification basis.

The second comment addressed the notice preamble as follows:

FR Page 32812, Third Column 1st and 2nd paragraph.

The last sentence of the 1st paragraph and the first sentence of the 2nd paragraph should be clarified to the following description of the P.180 flap system which includes a monitor:

The flap system is made up of four mechanically independent flap sets or surfaces consisting of main wing outboard and inboard flap sets each with independent mechanical interconnects and a separate left and right forward wing flap.

The main wing inboard flaps and each forward wing flap are electrically synchronized and slaved to the main wing outboard flaps.

The flap system includes a monitor to detect and annunciate any unsynchronized/nonsymmetric flap condition; however, the flap monitor does not disable the flap system and prevent further movement when an unsynchronized condition is detected.

The FAA recognizes this explanatory material has resulted from a design change. The FAA does not usually revise notice preamble material in the preamble of the final rule but, in this case, the comment is recognized herein for the public record. There were no comments affecting the substantive content of the special conditions.

Conclusion

This action affects only the Piaggio Model P–180 series airplanes. It is not a rule of general applicability and applies only to the model and series of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as part of the type certification basis for the Piaggio Model P–180 series airplanes and future changes to those airplanes:

1. Buffet Onset Envelope

In addition to the requirements of §§ 23.251 and 23.1585, with the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or Mach number, weight, and altitude for which the airplane is to be certificated. The buffet onset envelopes determined must be furnished as information in the Airplane Flight Manual. This information must include envelopes of load factors, speed, weight, and altitude which provide a sufficient range for normal operations. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

2. Inadvertent Excursions Beyond Maximum Operating Speeds

In addiiton to the requirements of § 23.251, it must be possilble to achieve a positive load factor of 1.5 for recovery from inadvertent speed excursions beyond V_{MO}/M_{MO} and up to V_{DF}/M_{DF}, for each combination or weight, altitude and center of gravity.

3. Effects of Contamination on Laminar Flow Airfoils

In the absence of specific requirements for airfoil contamination, airplane airfoil designs which have airfoil pressure gradient characteristics and smooth aerodynamic surfaces which may be capable of supporting natural laminar flow must comply with the following:

(a) It must be shown by tests or analysis supported by tests that the airplane complies with the requirements of §§ 23.141 through 23.253 with any airfoil contamination which would normally be encountered in service and which would cause significant adverse effects on the handling qualities of the airplanes resulting from the loss of laminar flow.

(b) Significant performance degradations identified as resulting from the loss of laminar flow must be provided as part of the information required by §§ 23.1585 and 23.1587.

4. Evaluation of Composite Structure

In addition to complying with § 23.572, all composite structure, the failure of which would result in catastrophic loss of the airplane, including the tail section, each forward wing and its attaching structure, and each moveable control surface, must be evaluated to the damage tolerance criteria prescribed in paragraphs (a) through (h) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (j) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (i) of this special condition.

(a) It must be demonstrated, by test or by analysis supported by test evidence, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstration, factored to obtain inspection intervals, must permit develolpment of an inspection program for application by operations and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the result of the damage tolerance eveluations. Inspection intervals must be set so that the damage initially becomes detectable by the inspection methods specified the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerances evaluations must be documented in test proposals.

(f) The empennage, tail cone, forward wing, forward wing attaching structure and each moveable control surface, must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(g) The effects of material variability and environmental conditions; e.g., exposure to temperature, humidity.

erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

(h) The structure must be shown by analysis to be free from flutter to V_D with the extent of damage for which residual strength is demonstrated.

(i) In lieu of a non-destructive inspection technique which assures ultimate load carrying capability of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraph (f) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must by prevented by design features.

(2) Proof testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(j) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be determined by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Impact damage in composite material components which may occur must be considered in the determination. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

5. Loads

(a) In addition to the requirements of § 23.301(b), the following shall be required: Methods used to determine load intensities and distribution over the various aerodynamic lifting and control surfaces must be validated by flight test measurement unless the methods used for determining those loads are shown to be reliable or conservative for the configuration under consideration.

(b) In lieu of § 23.301(d), the following applies: The forward lifting surface of a canard or a tandem wing configuration must meet all the requirements of Part 23, Subpart C, "Structure", applicable to a wing.

(c) In lieu of § 23.331 the following apply:

(1) The appropriate balancing loads must be accounted for in a rational or conservative manner when determining forward and main wing loads and linear inertia loads corresponding to any of the symmetrical flight conditions specified in §§ 23.333 through 23.341.

(2) The incremental forward wing and horizontal tail loads due to maneuvering and gusts must be reacted by the angular inertia of the airplane in a rational or conservative manner.

(3) Mutual influence of the aerodynamic surfaces must be taken into account when determining flight loads.

(d) In addition to the gust load requirements of § 23.341 the following applies:

The gust loads for a canard or a tandem wing configuration must be computed using a rational analysis considering the gust criteria of § 23.333(c) or may be computed in accordance with § 23.341 provided the resulting loads are shown to be conservative with respect to the gust criteria of § 23.333(c).

(e) In lieu of the balancing loads requirements of § 23.421, the following apply:

(1) A horizontal surface balancing load is a load necessary to maintain equilibrium in any specified flight condition with no pitching acceleration.

(2) Horizontal balancing surfaces must be designed for the balancing loads occurring at any point on the limit maneuvering envelope and in the flap conditions specified in § 23.345. The distribution in figure 86 of Appendix B of Part 23 may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(f) In addition to other applicable requirements, for gust loads on each horizontal surface forward of the main wing, the following apply:

(1) Each horizontal surface, other than the main wing, must be designed for loads resulting from—

(i) Gust criteria specified in § 23.333(c) with flaps retracted; and

(ii) Positive and negative gusts of 25 f.p.s. nominal intensity at V_F corresponding to the flight conditions specified in § 23.345(a)(2).

(2) When determining the total load on the horizontal surfaces for the conditions specified in subparagraph (f)(1) of this special condition, the initial balancing loads for steady unaccelerated flight at the pertinent design speeds, V_F, V_C, and V_D must first be determined. The incremental load resulting from the gusts must be added to the initial balancing load to obtain the total load.

(g) In addition to the requirements of § 23.425, for gust loads on the horizontal tail surface of a canard or tandem wing configuration, the loads computed in accordance with § 23.425 must be shown to be conservative with respect to the gust criteria of § 23.333(c).

6. Outward Opening Doors and Exits in the Pressure Cabin or Compartments

In addition to the requirements of §§ 23.783 and 23.807, each outward opening external door and exit must comply with the following:

(a) There must be a means to lock and safeguard each external door and exit against opening in flight, either inadvertently by persons or as a result of a mechanical failure or failure of a single structural element, either during or after closure.

(b) There must be a provision for direct visual inspection of the locking mechanism by a crewmember to determine, under operational lighting conditions, or by using a flashlight or equivalent lighting source, that all external doors and exits are fully closed and locked.

(c) There must be a visual warning means to signal flight crewmembers if any external door or exit is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable.

7. Forward and Main Wing Flap Interconnection

In lieu of § 23.701(a):

(a) The main wing flaps and the related moveable surfaces as a system must:

(1) Be synchronized by mechanical connection; or

(2) Maintain synchronization so that the occurrence of an unsafe condition has been shown to be extremely improbable; or

(b) The airplane must be shown to have safe flight characteristics with any combination of extreme positions of individual moveable surfaces; however, mechanically inter-connected surfaces are to be considered as a single surface.

8. Propeller Ground Clearance

In addition to the propeller clearance requirements of § 23.925, the following apply:

(a) The airplane must be designed such that the propellers will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings; and

(b) If a tail bumper or an energy absorption device is provided to show compliance with paragraph (a) of this special condition, the following apply:

(1) Suitable design loads must be established for the tail bumper or energy absorption device; and

(2) The supporting structure of the tail bumper or energy absorption device must be designed to withstand the loads established in paragraph (b)(1) of this special condition and inspection/replacement criteria must be established for the tail bumper or energy absorbing device and provided as part of the information required by § 23.1529.

9. Propeller Marking

In the absence of specific regulations, the propellers must be marked so that their discs are conspicuous under normal daylight ground conditions.

10. Propeller Ice and Exhaust Gas Impingement Protection

In the absence of protection requirements for pusher propellers, the following shall apply:

(a) Ice impingement on the propeller: All areas of the airplane forward of the propellers that are likely to accumulate and shed ice into the propeller disc during any operating condition must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(b) Exhaust gas impingement on propeller: If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests or analysis supported by tests that the propeller material is capable of continuous safe operation.

11. Cockpit Smoke Evacuation

In the absence of specific requirements for smoke evacuation, the following apply:

If accumulation of hazardous quantities of smoke in the cockpit area is reasonably probable, smoke evacuation must be readily accomplished starting with full pressurization and without depressurization beyond safe limits.

Issued in Kansas City, Missouri on November 2, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-27357 Filed 11-27-87; 8:45 am]

BILLING CODE 4710-13-M

14 CFR Part 39

[Docket No. 87-CE-15-AD; Amdt. 39-5748]

Airworthiness Directives; Beech 65, 70, 80, 90, 99, 100, 200, 300, and 1900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 87-22-01, Amendment 39-5748 (52 FR 38393; October 16, 1987), applicable to Beech 65, 70, 80, 90, 99, 100, 200, 300, and 1900 Series airplanes. This correction is necessary because two figures referenced in the AD were inadvertantly omitted from the text published in the **Federal Register** and the AD sent to the owners and operators of the affected airplanes.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone 316-946-4409.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 87-22-01, Amendment 39-5748 (52 FR 38393; October 16, 1987), applicable to certain Beech 65, 70, 80, 90, 99, 100, 200, 300, and 1900 Series airplanes the FAA found that two figures referenced in the AD were inadvertantly omitted from the text of the AD. The figures were included in the preamble when the NPRM which lead to this AD was published in the **Federal Register**. Therefore, action is taken herein to make this correction. Since this action corrects a deletion from a part of the AD and imposes no additional burden on the public, notice and procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By correcting and reissuing AD 87-22-01, Amendment 39-5748 (52 FR 38393; October 16, 1987) as follows:

Beech: Applies to all Models 65, 65-80, A65, A65-8200, 70, 65-A80, 65-A80-8800, 65-B80, 65-88, 65-90, 65-A90, 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90, C90A, E90, H90, F90, 100, A100, B100, 99, 99A, A99A, B99, C99, 200, 200C, 200CT, 200T, A200, A200C, A200CT, B200, B200C, B200CT, B200T, 300, 1900, and 1900C (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD unless already accomplished.

To prevent failure of the nose landing gear (NLG) fork due to undetected fatigue, cracking, accomplish the following:

(a) Within 200 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS for airplanes in the 65 Series, 70 Series, 80 Series, 99 Series, and 1900 Series, and 150 hours TIS for airplanes in the 90 Series, 100 Series, 200 Series, and 300 Series, inspect the NLG fork using fluorescent penetrant method in accordance with the instructions in Part II of Beech Service Bulletin No. 2102, Revision I, dated May 1987.

Note: Inspection for slippage of the NLG fork collar on the strut tube per Part I of the Service Bulletin is recommended but not required by this AD.

(1) If no cracks are found, the airplane may be returned to service.

(2) If a crack is detected at the tip of the weld, is not more than 0.75 inches in length, and does not branch out into the unwelded tube wall (See Figure 1 or Figure 2 as applicable), thereafter at intervals not to exceed 25 hours TIS, inspect the NLG fork per paragraph (a) above until replaced with a serviceable part. The replacement part is immediately subject to the conditions of this AD.

(3) If a crack is detected that exceeds the limits of paragraph (a)(2), prior to further flight, replace the NLG fork with a serviceable part. The replacement part is immediately subject to the conditions of this AD.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) The repetitive inspection intervals required by this AD may be adjusted up to 10 percent of the specified interval so as to coincide with other scheduled maintenance.

(d) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone 316-946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine the documents referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This correction becomes effective on November 30, 1987.

Issued in Kansas City on November 12, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

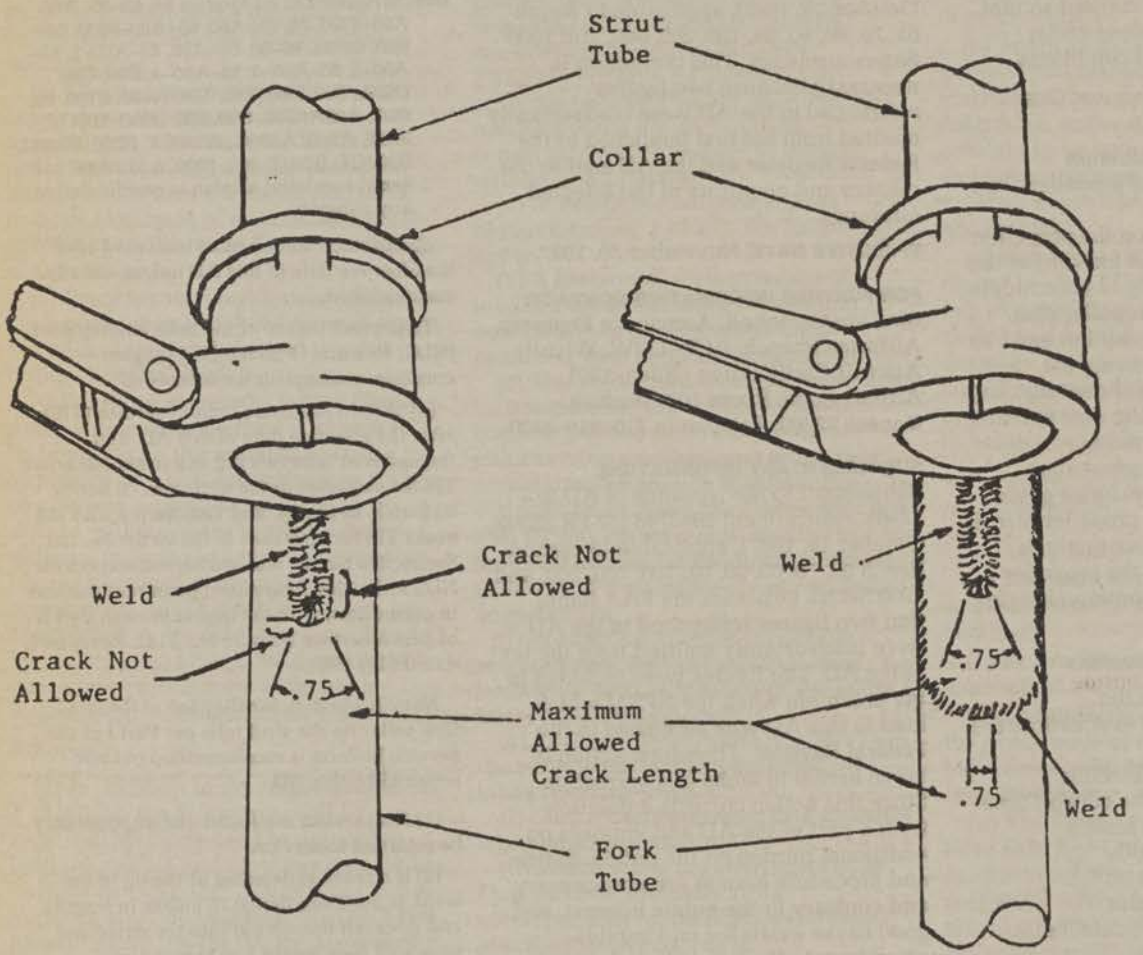

FIGURE 1

FIGURE 2

Left Side Views of Nosegear Fork Assembly
Two Configurations Currently in Use

[FR Doc. 87-27358 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-CE-34-AD; Amdt. 39-5782]

Airworthiness Directives; Cessna Models 340, 340A and 414 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 340, 340A and 414 airplanes which requires inspection for and correction of fuel line interference with the firewall access cover stiffener. The FAA has received reports of fuel leaks caused by chafing of the crossfeed fuel lines. The requirements of this AD will assure proper clearance between the crossfeed fuel lines and firewall stiffener and eliminate the potential fire hazard due to fuel leakage.

DATES: *Effective Date:* December 1, 1987. *Compliance:* As prescribed in the body of the AD.

ADDRESSES: Cessna Service Bulletin No. MEB87-7, dated November 13, 1987, applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201. A copy of this information is contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Wichita Aircraft Certification Office, ACE-140W, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone 316-946-4427.

SUPPLEMENTARY INFORMATION: The FAA has received reports of fuel leaks caused by chafing of the crossfeed fuel lines on certain Cessna Models 340, 340A and 414 airplanes. One report stated that fuel was observed running down the front side of the firewall toward the wastegate and out of the wing root rib area. These fuel lines run from the fuel tank outlet to the opposite wing selector valve. Should a leak occur between those two points, there is no way to shut the fuel off. As a result, Cessna has issued Service Bulletin No. MEB87-7, dated November 13, 1987, which specifies the inspection and modification procedures to assure continued safe operation.

Since the condition described is likely to exist or develop in other airplanes of the same type design, this AD requires inspection for crossfeed fuel line chafing and modification of the firewall stiffener in accordance with Cessna Service Bulletin No. MEB87-7 dated November 13, 1987, on certain Cessna Models 340, 340A and 414 airplanes.

The FAA has determined there are approximately 1813 airplanes affected by this AD. The one time cost of compliance with this AD, exclusive of replacement fuel lines, is estimated to be $225.00 per airplane. The total cost to the private sector is therefore estimated to be $407,925. The cost is so small that compliance with the amendment will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES". Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Cessna: Applies to Models 340 and 340A (Serial Numbers 340-0001 thru 340A1817); and 414 (Serial Numbers 414-0001 thru 414-0965) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service (TIS), after the effective date of this AD, unless already accomplished. To detect and correct fuel line chafing and fuel leaks in the area of each engine firewall, accomplish the following:

(a) Remove firewall access covers in both engine compartments and inspect the crossfeed fuel lines for evidence of chafing in accordance with Cessna Service Bulletin No. MEB87-7, dated November 13, 1987.

(b) If, as a result of the inspection required by paragraph (a), any evidence of chafing is found, prior to further flight replace the affected line with an airworthy part.

(c) In addition to the inspection required in paragraph (a), modify the firewall stiffener flanges and fuel lines in accordance with Cessna Service Bulletin No. MEB87-7, dated November 13, 1987.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Cessna Aircraft Company, Customer Service, P.O. Box 1521, Wichita, Kansas 67201; or may examine the document(s) at the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on December 1, 1987.

Issued in Kansas City, Missouri, on November 16, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-27359 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-79-AD; Amdt. 39-5780]

Airworthiness Directives; McDonnell Douglas Model DC-10-10, -15, -30, -40 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-10 series airplanes, which currently requires installation of a fuel hose shield for the Number 2 engine. This amendment requires installation of a fuel hose shield for the Number 2 engine on all other DC-10 airplanes.

DATE: Effective January 13, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach,

California 90846, Attention: Director, Publications, C1–750 (54–60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 74–18–17, Amendment 39–1985 (39 FR 36322; October 9, 1974), to require installation of a fuel hose shield for the Number 2 engine position on all DC–10 airplanes was published in the **Federal Register** on July 24, 1987 (52 FR 27823).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received. The commenter expressed no objection to the proposal.

The FAA has revised the final rule by deleting proposed paragraph C., which would have required operators to install a fuel hose shield immediately prior to the installation of any engine in the Number 2 engine position. Upon reconsideration, the FAA has determined that the requirement of that paragraph may be unduly restrictive in relation to paragraph B. The intent of paragraph B. is to require the installation of the fuel hose shield (on airplanes other than those equipped with General Electric CF6 engines with one or more gun-drilled fan blades) within a compliance time of 12 months; such installation on those airplanes does not necessarily have to be accomplished prior to further flight, as paragraph C. would have required.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change previously mentioned.

It is estimated that 22 Model DC–10–40 airplanes and 79 additional Model DC–10 airplanes of U.S. registry will be affected by this AD; that it will take approximately 8.6 manhours per Model DC–10–40 and 4 manhours per Model DC–10 airplane to accomplish the required actions; and that the average labor cost will be $40 per manhour. The estimated cost of parts is $1,770 per Model DC–10–40 and $1,168 per other Model DC–10 airplanes. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $151,500.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model DC–10 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 74–18–17, Amendment 39–1985 (39 FR 36322; October 9, 1974), as follows:

McDonnell Douglas: Applies to DC–10–10, –15, –30, –40, and KC–10A (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To provide additional fire protection for the Number 2 engine position in the event of fan blade fragmentation, accomplish the following:

A. For airplanes equipped with General Electric CF6 engines with one or more gun-drilled fan blades: Prior to further flight, install a fuel hose shield on the Number 2 engine in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin No. 71–57, dated September 3, 1974, or later FAA-approved revisions.

B. For all other airplanes: Within the next 12 months after the effective date of this AD, install a fuel hose shield on the Number 2 engine position in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin No. 71–141, dated June 24, 1986, or later FAA-approved revisions.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective January 13, 1988.

Issued in Seattle, Washington, on November 16, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–27360 Filed 11–27–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–ASW–51; Amdt. 39–5778]

Airworthiness Directives; Sikorsky Model S–76A and S–76B Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one-time modification to provide separate ground connections for 26 volt alternating current (VAC) step down transformers 1 and 2 on Sikorsky Model S–76A and S–76B series helicopters. This AD is needed to prevent complete loss of AC electrical power which could result in loss of the aircraft.

DATE: *Effective:* December 31, 1987.

Compliance: Required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Mr. Abbas A. Rizvi, Boston Aircraft Certification Office, ANE–153, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7067.

SUPPLEMENTARY INFORMATION: The FAA has determined that loss of shared ground connection for 26 VAC transformers may result in complete loss of AC electrical power. Since this condition is likely to exist or develop on

helicopters of the same type design, an airworthiness directive is being issued which requires separation of ground connections for 26 VAC transformers 1 and 2 on Sikorsky Model S-76A and S-76B series helicopters through and including serial number 760350.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Sikorsky Aircraft: Applies to all Model S-76A and S-76B series helicopters through and including serial number 760350, certified in any category.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible loss of AC electrical power due to 26 VAC transformer single ground connection failure, provide separate ground connections for 26 VAC transformers 1 and 2.

Note: Sikorsky Service Bulletin No. 76-24-5, AC Electrical Power System-AC Power Transformer Ground Wires Termination-Separation of, dated October 19, 1987, constitutes an acceptable means of compliance with this requirement.

This amendment becomes effective December 31, 1987.

Issued in Fort Worth, Texas, on November 9, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-27361 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ANE-35; Amdt. 39-5762]

Airworthiness Directives; Valentin GmbH TAIFUN 17E

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Valentin GmbH TAIFUN 17E motor gliders which requires initial and repetitive visual inspections and replacement of damaged parts where required. It also requires incorporation of revised pages in the TAIFUN 17E Glider Flight Manual and Instructions for Continued Airworthiness. This action was prompted by the determination that the air brake, wheel brake, and rudder control systems can be damaged from excessive pilot control forces. This condition, if not corrected, could result in the loss of air brake, wheel brake, or rudder control.

DATES: *Effective:* December 3, 1987.

Compliance schedule: As prescribed in the body of the AD. Incorporation by Reference approved by the Director of the **Federal Register** as of December 3, 1987.

ADDRESSES: The technical information and replacement parts specified in this AD may be obtained from Morris Aviation Limited, Statesboro Airport, Box 718, Statesboro, Georgia 30458, telephone (912) 489-8161. A copy of the technical note is contained in the Rules Docket, Office of the Regional Counsel, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium; telephone 513.38.30, extension 2710, or John J. Maher, New York Aircraft Certification Office, ANE-172, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6221.

SUPPLEMENTARY INFORMATION: Valentin GmbH has determined that damage due to excessive pilot control forces during normal operations may occur in the welded joints of the control systems for the air brake, the wheel brake, and the rudder. The manufacturer has issued Technical Note (TN) No. 11/818 dated March 9, 1987, which recommends initial and repetitive visual inspections and replacement of any damaged parts, and incorporation of revised pages in the Glider Flight Manual and Instructions for Continued Airworthiness. The revised flight manual pages contain revised landing and taxi instructions to prevent the occurrence of such damage and a cockpit check for damaged controls. The Instructions for Continuing Airworthiness have been revised to include the inspections required by this AD. The Luftfahrt-Bundesamt (LBA), who has responsibility and authority to maintain the continuing airworthiness of these gliders in the Federal Republic of Germany, has issued an AD requiring compliance with the provisions of Valentin TN No. 11/818 on motor gliders operated under the Federal Republic of Germany registration. The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of the design of these gliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Valentin TN No. 11/818 and the issuance of LBA AD No. 87-84 Valentin on TAIFUN Model 17E. Based on the foregoing, the FAA has determined that the condition addressed by Valentin TN No. 11/818 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, an AD is being issued to require initial and repetitive inspections and replacement of damaged parts in the air brake, wheel brake, and rudder control systems on Valentin GmbH Model Taifun 17E motor gliders. Also, incorporation of revised pages in the Glider Flight Manual and Instructions for Continued Airworthiness is required.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this

amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by Reference

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Valentin GmbH: Applies to Model Taifun 17E motor gliders certificated in any category.

Compliance is required as indicated unless already accomplished.

To prevent failure in the air brake, wheel brake, or rudder control systems, accomplish the following:

(a) Within the next 10 hours time-in-service after the effective date of this AD and thereafter at intervals not to exceed 25 hours time-in-service after the last inspection, visually inspect the welded joints of the air brake actuating lever/torsion axle, actuating lever of brake cylinder/torsion axle, and pedal lever arms/pedal torsion axles, using a 5 power or greater magnifying glass, for cracks or deformation; reference Action 1 of Valentin TN No. 11/818 dated March 9, 1987.

(b) If cracked or deformed parts are found during the inspection required by Paragraph (a) of this AD, before further flight, replace the damaged parts with serviceable parts of the same part number.

(c) Within the next 10 hours time-in-service after the effective date of this AD, exchange Glider Flight Manual pages 36/37/40/46 for same pages, February 1987 edition, and Instructions for Continued Airworthiness page 64 for same page, February 1987 edition, in accordance with Action 2 of Valentine TN No. 11/818 dated March 9, 1987.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B–1040 Brussels, Belgium, or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, New England Region, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

Valentin TN No. 11/818, dated March 9, 1987; including TAIFUN 17E Glider Flight Manual pages 36/37/40/46, February 1987 edition; and TAIFUN 17E Instructions for Continued Airworthiness page 64, February 1987 edition, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Morris Aviation Ltd., Statesboro Airport, Box 718, Statesboro, Georgia 30458. These documents also may be examined at the Rules Docket, Office of the Regional Counsel, Room 311, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

This amendment becomes effective on December 3, 1987.

Issued in Burlington, Massachusetts, on October 22, 1987.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 87–27362 Filed 11–27–87; 8:45 am]

BILLING CODE 4910–13–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Designation of Tennessee Human Rights Commission

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the Tennessee Human Rights Commission as certified 706 agencies.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Valenentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 2401 E Street, NW., Washington, DC 20507, telephone number (202) 634–6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the Tennessee Human Rights Commission meets the eligibility criteria for certification of designated 706 Agencies as established in 29 CFR 1601.75(b). In accordance with 29 CFR 1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include: Tennessee Human Rights Commission.

Publication of this amendment to § 1601.80 effectuates the designation of the following agency as a certified 706 agency: Tennessee Human Rights Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal Employment Opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

1. The authority citation for Part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17.

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the Tennessee Human Rights Commission in alphabetical order.

Signed at Washington, DC this 24th day of November, 1987.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 87–27444 Filed 11–27–87; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 763

Rules Governing Public Access; Kahoolawe Island and Kaulo Under Cognizance of Commander Naval Base, Pearl Harbor, HI

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending the Rules Governing Public Access, codified in 32 CFR Part 763, to reflect the safety regulations. Because the island of Kahoolawe has been used by the armed forces for ordnance training, there is the ever present danger of unexploded ordnance both on and beneath the surface of the island. The following regulations are intended to minimize those dangers and to make visits safe and pleasant.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Staff Judge Advocate, Commander Naval Base, Pearl Harbor, HI 96860–5020, (808) 471–0284.

SUPPLEMENTARY INFORMATION: This amendment is made solely to incorporate safety regulations on Kahoolawe Island. It does not originate any requirement of general applicability and future effect for implementing, interpreting, or practice and procedure requirements constituting authority for prospective actions having substantial and direct impact on the public, or a significant portion of the public. Publishing this amendment for public comment is unnecessary since it would serve no purpose, and significant and legitimate interests of the Department of the Navy and the public (cost savings) will be served by omitting such publication for public comment.

PART 763—[AMENDED]

1. The authority citation for 32 CFR Part 763 continues to read as follows:

Authority: 50 U.S.C. 797; DoD Dir. 5200.8 of Aug. 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714; E.O. No. 10436, 3 CFR 1949–1953 Comp. p. 930, (1958).

2. For the reasons set out in the preamble, 32 CFR Part 763 is amended by adding a new § 763.5(d) to read as follows:

§ 763.5 Entry procedures.

* * * * *

(d) The following safety regulations are applicable to visitors to Kahoolawe Island:

(1) All visitors to the island are required to execute and submit a waiver of government liability form to a designated Navy representative prior to arrival at the island.

(2) Visitors to the island will be escorted by Navy designated Explosive Ordnance Disposal (EOD) technicians to ensure that they stay on cleared paths, avoid impact areas, and do not touch high explosives. For visitor safety, the directions of the military escorts must be followed.

(3) No person will interfere with any EOD escort in the performance of his duties.

(4) Any actual or suspected ordnance found by a visitor shall be reported to the Special Assistant for Kahoolawe as soon as possible. If he is not in the vicinity, a description and location of the ordnance should be provided to the nearest EOD technician. Everyone, other than EOD personnel, shall remain clear of any ordnance found.

(5) Only the qualified EOD technicians shall touch, examine, remove, attempt to remove, handle either directly or indirectly, or detonate any ordnance, whether found on the surface, beneath the surface or in the waters surrounding Kahoolawe.

(6) Any proposed hike and procession route shall be provided to the Special Assistant for Kahoolawe (or his designated representative) for approval and escort coordination at least twenty-four hours in advance of the planned event. Deviation from approved routes will not be allowed. Proposed campsites for overnight hikes shall be similarly provided to, and approved by, the Special Assistant for Kahoolawe or his designated representative.

(7) No person shall move about the island after sunset unless a bonafide emergency situation arises. The senior Naval officer present shall be immediately notified in case of such emergency.

(8) No person shall commit any offense proscribed by either Federal law or the State of Hawaii Penal Code, as incorporated under the Federal Assimilative Crimes Act, while on the island of Kahoolawe. Any individual who violates any provisions of these penal codes may be prosecuted by the Federal Government and/or barred from any future access to Kahoolawe.

(9) No person shall deface, alter, remove, spoil, or destroy any archeological object, feature, or site on the island.

(10) Children shall remain with their parents at all times while on the island.

(11) Visitors are responsible for removing their own trash from the island.

(12) Individuals failing to abide by these safety guidelines will be precluded from future visitations.

Dated: November 23, 1987.

Jane M. Virga,

Lt. JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 87–27348 Filed 11–27–87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 70101–7001]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA announces a closure of the fishery for widow rockfish caught off the coasts of Washington, Oregon, and California, and seeks public comment on this action. This closure is authorized under the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) and the 1987 fishing restrctions which prohibit retention or landings of widow rockfish when the quota is reached. The Director, Northwest Region, NMFS (Regional Director) has determined that the 1987 quota of 12,500 metric tons (mt) for widow rockfish was reached on November 7, 1987. This closure is intended to prevent overfishing of a species which is fully utilized.

DATES: Effective from 0001 hours Pacific Standard Time (PST), November 25, 1987 until 2400 hours PST, December 31, 1987, unless modified, superseded, or rescinded. Comments will be accepted until December 15, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206–526–6140; or Rodney R. McInnis, 213–514–6199.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP at 50 CFR 663.21(b) require the Secretary of Commerce (Secretary) to prohibit retention or landing of a species in the fishery management area when the numerical optimum yield (OY) quota for that species in the fishery management area is reached. The 1987 OY for widow rockfish applies coastwide and is 12,500 mt (52 FR 682, January 8, 1987).

On October 7, 1987, a notice in the **Federal Register** at 52 FR 37466 announced that the weekly trip limit on widow rockfish would be lowered from

30,000 pounds to 5,000 pounds when 95 percent of the OY was projected to be reached to allow incidental catches to be landed and to discourage target fishing. On October 14, 1987, this reduced trip limit went into effect (52 FR 38429, October 16, 1987).

Based on the best available information as of November 17, 1987 and in cooperation with the Washington Department of Fisheries, the Oregon Department of Fish and Wildlife, the California Department of Fish and Game, and the Pacific Fishery Management Council (Council), the Regional Director determined that the 12,500 mt quota for widow rockfish was reached on November 7, 1987. Accordingly, closure of the fishery for widow rockfish is effective at 0001 hours PST on November 25, 1987. The States of Washington, Oregon, and California will close state ocean waters at the same time.

This action is automatic and non-discretionary and modifies previous restrictions for widow rockfish (52 FR 790, January 9, 1987; 52 FR 15726, April 30, 1987; 52 FR 37466, October 7, 1987; 52 FR 38429, October 16, 1987).

Because the vast majority of groundfish landed off Washington, Oregon, and California is taken from the exclusive economic zone (EEZ) which extends from 3 to 200 nautical miles offshore, all groundfish retained or landed under these restrictions will be treated as though they were taken in the EEZ as in 1984–1987.

Secretarial Action

For the reasons stated above, the Secretary of Commerce announces that:

(1) It is unlawful for any person to retain or land widow rockfish.

(2) This restriction applies to all widow rockfish caught in ocean waters (0–200 nautical miles) offshore of Washington, Oregon, and California. All widow rockfish that are possessed 0–200 nautical miles offshore of, or landed in Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

(3) These provisions remain in effect from 0001 hours Pacific Standard Time, Wednesday, November 25, 1987, until 2400 hours Pacific Standard Time, Thursday, December 31, 1987.

Classification

The determination to prohibit further landings of widow rockfish is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see ADDRESSES) during business hours until the end of the comment period.

This action is taken under the authority of 50 CFR 663.21(b) and 663.23, and is in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Because of the immediate need to prohibit further landings of widow rockfish and thereby prevent inequitable and excessive harvest that could otherwise result, the Secretary finds that advance notice and public comment on this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. The public was notified at the Council's September and November 1987 meetings that landings of widow rockfish could reach the quota before the end of the year. The public had the opportunity to comment at Groundfish Select Group, Groundfish Management Team, and Council meetings in August, September, October, and November 1987. Public comments also will be accepted for 15 days after publication of this notice in the **Federal Register**. The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of 50 CFR 663.23(c).

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: November 3, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–27375 Filed 11–24–87; 11:10 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 229
Monday, November 30, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children; Reporting Participation and Priority Data

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend the Special Supplemental Food Program for Women, Infants and Children (WIC) Regulations by revising the requirement that State agencies report the category and nutritional risk priority of persons to whom they have made program benefits available. State agencies would be required to report this information: (1) With respect to persons *participating* in the Program rather than to persons *enrolled* in the Program, as required under current regulations; and (2) *quarterly* rather than *semiannually*, as required under current regulations. All State agencies would be required to complete their transitions to this revised reporting requirement by September 30, 1988. The existing requirement to report priority enrollement data semiannually was established in 1985 to meet the Department's and State agencies' caseload management needs. The data collected thereby have been used to help target program benefits to persons at greatest nutritional risk and have been adequate for this purpose. However, a final rule making targeting success a factor to be considered in the allocation of funds to State agencies for WIC food costs was published on July 2, 1987. 52 FR 25182. Operation of the funding formula prescribed by this final rule would be improved by more accurate and representative priority data than is currently available. Shifting the reporting of priority data from enrollment to participation and increasing the reporting frequency would enhance the quality of this reported data.

DATES: *Effective Date:* The Department proposes that the rule would become effective on September 30, 1988.

Comment Dates: Comments on the proposed rule must be received on or before January 14, 1988.

ADDRESS: Comments may be mailed to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 407, Alexandria, Virginia 22302. All written comments shall be available for public inspection at the Food and Nutrition Service office during regular business hours (8:30 am to 5:00 pm, Monday through Friday) at the above address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Vogel, (703) 756–3746.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291 and has been classified to be *not major*. The Department does not anticipate that this rule would have an annual impact on the economy of $100 million or more. This rule would not result in a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Nor would this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service (FNS) has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reporting and recordkeeping requirements identified in § 246.25(b) are being reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

The WIC Program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published June 24, 1983 (48 FR 29114)).

Background

Current Reporting Requirement

Paragraph 246.25(b)(2) (June 4, 1987) of the current Program Regulations instructs State agencies to report semiannually the number of persons enrolled in the Program by category within each priority level. (As indicated in the regulation, categories are pregnant, breast-feeding, and postpartum women, infants and children; priority levels are those established at 7 CFR 246.7(d)(4)). This reporting requirement was first promulgated through a regulatory amendment published February 13, 1985, 50 FR 6098, 6145, and the first reports submitted by State agencies presented the composition of their enrollments as of October 1985. At that time, the Department envisioned using the priority/category data to monitor State agencies' caseload management efforts. Caseload management has assumed greater importance in recent years. State agencies' use of available resources to accomplish the WIC Program's mission requires that they use their WIC food grants as efficiently and effectively as possible. The Department considers the targeting of Program benefits to persons at greatest nutritional risk (and thus at the highest priority levels) to be the indicator most reflective of the efficiency and effectiveness with which a State agency manages its grant.

The semiannual reporting frequency was deemed appropriate for gathering priority data for caseload management purposes. Since most categories of persons enrolled in the WIC Program are certified for periods of approximately 6 months, State agencies could not be expected to show substantial progress in targeting at more frequent intervals.

In addition to the reporting frequency, another decision made in 1985 involved the type of data to be gathered. State agencies generally maintain two types of data on persons to whom they have made Program benefits available: The number of persons participating and the

number of persons enrolled. The Program Regulations currently define participation (by all categories of persons other than breastfed infants) as the receipt of supplemental foods or food instruments, 7 CFR 246.2 (July 2, 1987); enrollment refers to the number of persons on the Program and thus authorized to receive supplemental foods or food insturments. State agencies generally obtain participation data by counting food instruments issued each month. Enrollment, on the other hand, is generally drawn from the State agency's caseload data masterfile. The Department has long required State agencies to report participation by women, infants and children, and all State agencies have systems in place to do so. Nevertheless, feedback obtained from State agencies indicated that data on participants' priority assignment was generally available only in caseload data masterfiles (enrollment data), not in food delivery data files (participation data). Systems changes to generate enrollment data by priority were therefore perceived as less burdensome than reprogramming food delivery data systems to generate the priority classification of persons to whom supplemental food or food instruments had been issued. Accordingly, the Department elected to require that State agencies report enrollment rather than participation by category and priority.

Need for Improved Reporting

Since the inception of this semiannual priority reporting requirement, the Department has worked with State agencies to increase the proportion of their caseloads in the highest priority groups. Both the Department and the State agencies have relied upon the priority enrollment data in making a wide range of caseload management decisions. State agencies consider the priority/category composition of local agencies' existing caseloads in determining the allocation of available caseload slots. The Department performs analyses of State agencies' caseloads, including caseload priority composition, in order to identify those most likely to benefit from technical assistance in caseload management. In addition, the Department uses the priority enrollment data to track each State agency's targeting progress over time.

More recently, the Department's concern for the most effective use of available resources has fueled an initiative to further promote targeting through the funding process. Targeting would be considered in the allocation of funds to State agencies for WIC food costs. Proposed rules containing funding formulas designed to accomplish this appeared in the **Federal Register** on September 9, 1986, 51 FR 32093, and again on April 17, 1987, 52 FR 12527. The former called for the direct use of the semiannual priority enrollment data to factor targeting success; the latter involved imputing national aggregate high priority representation in enrollment to individual State agencies' monthly participation data. The final rule, published July 2, 1987, retained the principal provisions of the April 17 proposed rule concerning sources of data for the formula's targeting elements.

Comments received in response to the September 9 proposed rule, as well as other consultations with FNS regional and State program managers, disclosed widespread concern about the use of priority enrollment data in a funding formula. Some of these concerns were related to the data's accuracy, timeliness and comparability between State agencies. In this respect, the Department has long been aware that the priority enrollment data currently available represents a broad spectrum of State agency policies, reporting methods and information management system capabilities. Much of this variation can be attributed to the relatively recent initiation of the priority reporting requirement; in the absence of a uniform Federal requirement, each State agency had designed its system to meet its own internal program management needs. Recognizing this, the Department initially instructed State agencies to report the composition of their caseloads as categorized in their respective files. Adjustments to obtain greater uniformity were deemed too complex and budensome and were not required.

Nevertheless, the Department agrees that data used in funds allocation must meet higher standards of accuracy, timeliness and comparability than has hitherto been acceptable. The funds allocations generated by a formula using currently available data may reflect not only the operation of the formula itself but also the unique characteristics of individual State agency reporting systems. Feedback obtained through comments and consultations indicated that some State agencies believed the new formula's results would not be fully equitable without improvements in the quality of the data used in generating those results. To address these concerns, the Department assembled a work group to examine existing practices for reporting both enrollment and participation and to recommend improvements. To Serve on this work group, the Department selected FNS headquarters and regional office staff with recognized expertise in matters relating to program accounting and reporting.

The work group's deliberations proceeded concurrently with the development of the revised funding formula contained in the April 17 proposed rule. The work group distributed its preliminary findings and recommendations to the State agencies and FNS regional offices in December 1986 and requested feedback. Most of the comments subsequently received were generally supportive, and the work group's final report was submitted to FNS management in February 1987. The recommendations for improving both the monthly reporting of participation data and the periodic reporting of priority data were presented in a workshop at the March 1987 annual meeting of the National Association of WIC Directors.

This presentation was generally well received. Given the need for better data and the generally positive reception of the recommended approaches to obtaining it, the Department accepted the work groups's recommendations and made plans to implement reporting changes as soon as possible.

The Department recognizes that State agencies must be given a reasonable period of time to make the systems changes needed for new reporting requirements. Therefore, full implementation would not become mandatory until September 30, 1988. (State agencies may, if they deem it appropriate, institute the changes before that date. Some State agencies might complete the conversion sooner than others.) Fiscal Year 1988 would be regarded as a transitional period, during which State agencies would move toward compliance. Most of the changes in Program reporting can be initiated under current regulations, and the Department will soon distribute appropriately revised forms and operating instructions to the State agencies for comment. However, the Department has recently determined that two of the changes in reporting priority data require rulemaking, because otherwise, these changes would contravene existing regulations. These changes are:

- State agencies should report participation data by priorty at the time of certification, rather than enrollment data by priority.
- Participation by priority at certification should be reported quarterly.

The regulatory amendment hereby proposed would revise the existing

reporting requirements in order to permit implementation of these two improvements. They are discussed in greater detail below.

Recommended Improvements

1. Reporting participating by priority at time of certification. The work group considered current practices for reporting both enrollment and participation, and identified two major options for obtaining more accurate, comparable priority data. These options were:

- Formulate and implement a detailed directive on how State agencies should maintain their caseload data masterfiles; or
- Require State agencies to report participation data by priority rather than enrollment by priority.

The work group concluded that reporting participation by priority was the preferable approach. The comparability of the priority enrollment data was found to be affected by such variables as the method the State agency uses to select enrollment data from its caseload masterfile; the State agency's policy on terminating clients from the Program; the allowance of a grace period before terminating a client for failure to participate; the timeliness with which new enrollments, terminations and changes in priority assignment are entered into the system; etc. Obtaining more accurate, uniform enrollment data thus posed sweeping and complex problems. Obtaining participation data by priority was found more practicable. To be sure, variation was also noted in the methods used by State agencies to obtain monthly participation data, and the work group made recommendations for addressing these conditions. Some State agencies may require systems changes in order to obtain more accurate monthly participation data as well as periodic participation data by priority. Nevertheless, the systems changes necessary to achieve more accurate, uniform reporting of enrollment by priority would have imposed greater complications.

The April 17 proposed rule called for the use of participation data in the new funding formula, with a provision that the Department would make such adjustments as were necessary to impute the high priority portion of each State agency's participation. Almost all commenters who addressed the question of data sources supported the use of participation data. They concurred in the Department's appraisal of participation data as more accurate and uniform than enrollment data. Accordingly, the provision for the use of participation data to factor targeting success was retained in the July 2 final rule.

As explained in the preamble to the July 2 final rule, the Department regards the work group's recommendation as a long term response to the need for participation data classified by both category and priority.

2. Quarterly reporting of priority data. As has already been noted, numerous State officials have expressed concern about the Department's making program management and funds allocation decisions on the basis of priority enrollment data collected semiannually. Many of these objectives were founded upon the perception that the size and composition of some State agencies' caseloads vary at different points in the fiscal year, so that data collected so infrequently could not fairly represent such State agencies' caseloads. This objection applies especially to State agencies whose caseloads contain significant numbers of migrant farm workers. If the two selected report months do not coincide with the migrants' presence in the State, reliance on the semiannual enrollment data could lead to understatement or overstatement of a State agency's caseload level and inaccurate distribution of persons by priority level. Seasonal variations in birthrates within a State could also produce this result. Reliance on such data could lead the Department to make less appropriate decisions with respect to State agencies than would have been possible if more accurate and representative data had been available.

In response to such concerns, the work group recommended the collection of priority data on a quarterly basis. It was recognized that still greater precision could be achieved through monthly reporting, and some State agencies commented that they already generate monthly priority data for their internal caseload management purposes. However, the work group received other comments to the effect that State agencies relying on manual information systems would find reporting more frequently than on a quarterly basis very burdensome.

In an effort to strike a balance between the competing needs to obtain accurate priority data and to minimize reporting burdens, the Department proposes to begin collecting priority data on a quarterly basis. The Department believes that this proposal represents a reasonable compromise between the high degree of precision that could be achieved by collecting priority data monthly and the reporting burden such a requirement would impose on some State agencies.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, it is proposed to amend 7 CFR Part 246 as follows:

PART 246—[AMENDED]

1. The authority citation for Part 246 continues to read as follows:

Authority: Sec. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); Sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); Sec. 203, Pub. L. 96–499, 94 Stat. 2599; Sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786).

2. In § 246.25, paragraph (b)(2) is revised to read as follows:

§ 246.25 Records and reports.

* * * * *

(b) * * *

(2) *Quarterly reports.* Quarterly, on dates specified by FNS, State agencies shall report the number of persons participating in the Program by category (i.e., pregnant, breastfeeding, and postpartum women, infants and children) within each priority level as established in § 246.7(d)(4).

* * * * *

Date: November 23, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87–27376 Filed 11–27–87; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 22; Doc. No. 4941S]

General Crop Insurance Regulations; Certified Seed Potato Option

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.131, to be known as the Certified Seed Potato Option. The intended effect of this rule is to provide the regulations containing the provisions of the certified seed crop insurance protection on potatoes as an option to

the proposed Northern Potato Crop Insurance Endorsement (7 CFR 401.128) under the general crop insurance policy which contains the standard terms and conditions common to most crops.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than December 30, 1987, to be sure of consideration.

ADDRESSES: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as October 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.131, the Certified Seed Potato Option, effective for the 1988 and succeeding crop years, to provide the provisions for insuring certified seed.

Upon publication of 7 CFR 401.131 as a final rule, the provisions for insuring certified seed potatoes contained therein will be applicable to the Northern Potato Endorsement proposed to be issued as a separate document amending the General Crop Insurance provisions as 7 CFR 401.128.

The provisions of the Certified Seed Potato Option contained herein do not supersede those provisions contained in 7 CFR Part 422, the Potato Crop Insurance Regulations, as they relate to potato crop insurance coverage in all other states.

The present Certified Seed Option contained in 7 CFR Part 422 will be maintained for all other states and counties wherein potato crop insurance is authorized to be offered.

Minor editorial changes have been made to improve compatibility with the proposed potato crop insurance endorsement. These changes do not affect meaning or intent of the provisions.

One additional change is proposed to the Certified Seed Potato Option; the rate paid for potatoes which, because of insurable causes fail to qualify as certified seed potatoes, is established as one dollar and fifty cents ($1.50) per cwt.

This increase in the dollar rate reflects changes in the market where the demand for table grades has dropped and demand for certified seed potatoes has risen. That dictates a wider spread between the basic return for table grades and that of certified seed potatoes.

Under the certified seed option, a grower producing certified seed may lose a portion of the crop because the seed potatoes fail to meet specifications. In that event, the insured producer is now paid $1.00 per cwt. for such failed seed potatoes, which are then sold at a lower price as table stock. The increase from $1.00 to $1.50 per cwt. represents a recognition of the loss suffered by the insured certified seed producer.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the Federal Register. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

Crop insurance, Certified seed potato option.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), proposed to be effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub.L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. A new § 401.131 is added to read as follows:

§ 401.131 Certified seed potato option.

The provisions of the Certified Seed Potato Option for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Certified Seed Potato Option

Insured's Name _____
Address _____
Contract No. _____
Crop Year _____
Identification No. _____
SSN _____
Tax _____

When you submit this Amendment each crop year on or before the final date for accepting applications and we approve the Option, your insurable acreage of potatoes grown for certified seed will be insured, if:

1. You are currently insured under the Northern potato insurance program;

2. All potatoes which are grown for certified seed on insurable acreage are insured;

3. You are a person whose potatoes have qualified for entry into the Certified Seed program for the previous 3 years. (After initial approval, you will be exempt from this requirement provided you have discontinued participation in the program for not more than one crop year out of any three consecutive crop years);

4. You provide acceptable records of your certified seed potato acreage and production for at least the previous 3 years;

5. Potatoes for seed are not grown on the same land on which potatoes of the same variety as the seed potatoes have been grown more than 2 years out of the preceding 4 years;

6. Elite or high-grade foundation seed potatoes or seed potatoes having a winter test reading of not more than 3 percent common virus are used in planting; and

7. Your acreage insured for certified seed production is managed in accordance with

standard practices and procedures required for certification as prescribed by the certifying agency and applicable state regulations regarding seed potato certification.

Your production guarantee and premium rate will be provided by the actuarial table for certified seed potatoes. If, due to insurable causes occurring within the insurance period, potato production will not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you one dollar and fifty cents ($1.50) per cwt., times your production guarantee for such acreage, times your share.

Production which will not qualify as certified seed due to:

1. Failure to carry out the standard practices and procedures required for certification; or

2. Varietal mixtures, will be considered production lost due to uninsured causes.

Insurable acreage grown under the provisions of this amendment may be designated as a separate unit.

Any claim for indemnity on a unit must be submitted to us on our form no later than 10 working days after you receive your records from the certification agency.

All provisions of the Northern potato policy not in conflict with this amendment are applicable.

This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the certified seed potato option.

The insured estimates that the Certified Seed Potato Acreage for the crop year will be_____

Insured's Signature _____

Date _____

Corporation Representative's Signature and Code Number _____

Date _____

Field Actuarial Office Approval _____

Date _____

Done in Washington, DC on November 18, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-27353 Filed 11-27-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 25; Doc. No. 4986S]

General Crop Insurance Regulations; Quota Tobacco Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.133, Quota Tobacco Endorsement. The intended effect of this rule is to provide the regulations containing the provisions of crop insurance protection on tobacco in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than December 30, 1987, to be sure of consideration.

ADDRESSES: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington DC 20250.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as October 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 becuase it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.133, the Quota Tobacco Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring tobacco.

Upon publication of 7 CFR 401.133 as a final rule, the provisions for insuring tobacco contained therein will supersede those provisions contained in 7 CFR Part 435, the Tobacco (Quota) Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 435 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 435 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Quota Tobacco Endorsement to 7 CFR Part 401, FCIC proposes to makes changes in the provisions for insuring tobacco as follows:

1. *Section 1*—Add a provision indicating that tobacco destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to a crop that is intended for destruction or destroyed to comply with other USDA programs.

2. *Section 7*—Provide that insurance will begin on each unit or portion of a unit. This change is made to avoid instances when delayed planting of part of a unit until after the final planting date would prevent insurance form attaching on timely planted acreage.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Corp Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

Crop insurance, Quota tobacco endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1510 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop

Insurance Regulations (7 CFR Part 401), proposed to be effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. A new § 401.133 Quota Tobacco Endorsement is added to read as follows:

§ 401.133 Quota Tobacco Endorsement.

The provisions of the Quota Tobacco Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Quota Tobacco Endorsement

1. Crop, acreage, and share insured.

a. The crop insured will be tobacco of the type shown as insurable in the actuarial table; which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table:

b. In addition to the tobacco not insurable in section 2 of the general crop insurance policy, we do not insure any tobacco on which the crop was destroyed or put to another use for the purpose of conforming with any other program administered by the United States Department of Agriculture;

c. Planted to tobacco of a discount variety under provisions of the tobacco price support program.

2. Insured poundage quota.

The insured poundage quota for each crop year will be the effective poundage marketing quota (within ASCS tolerance) applicable to the unit as provided under ASCS Tobacco Marketing Quota Regulations for the crop year as reported by you or as determined by us, whichever we elect, not to exceed any amount which would be subject to a marketing quota penalty under ASCS Tobacco Marketing Quota Regulations. However:

a. The insured poundage marketing quota will be reduced for any carry-over tobacco to be marketed under the poundage quota applicable to the unit when such poundage reduction is clearly specified by you in filing the acreage and quota report:

b. The insured poundage quota will never exceed the pounds obtained by multiplying the insured acres by the applicable farm yield per acre; and

c. Unless otherwise provided by the actuarial table, for any crop year in which tobacco poundage marketing quota regulations are not in effect, the insured poundage quota will be the pounds obtained by multiplying the applicable farm yield per acre (as shown at ASCS times the lower of the reported or insured acreage on the unit.

3. Causes for loss.

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are expected, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

4. Report of acreage, share, and poundage quota.

a. In addition to the requirements of section 3 of the general policy, you are required to report:

(1) All the acreage of insurable types of tobacco in the county in which you have a share; and

(2) The effective poundage marketing quota applicable to the unit as provided under ASCS Tobacco Marketing Quota Regulations for the crop year. Such poundage marketing quota may be reduced for any carry-over tobacco to be marketed under the poundage quota applicable to the unit, provided such poundage reduction is clearly specified in this report.

5. Amounts of insurance and coverage level.

a. The amount of insurance for a unit will be the dollar amount determined by multiplying the insured poundage quota for the unit by the percentage guarantee for the applicable coverage level established by the actuarial table and multiplying this product by the current year's support price for type 31 tobacco (rounded to the nearest cent) less six cents per pound for warehouse charges). Coverage level 2 will apply if you have not elected a coverage level.

6. Annual premium.

a. The annual premium amount is computed by multiplying the amount of insurance for the unit, times the premium rate, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the quota tobacco policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

7. Insurance period.

In lieu of the provisions in section 7 of the general crop insurance policy the following will apply:

Insurance attaches on each unit or part of a unit when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. February 28 immediately after the normal harvest period:

8. Unit division.

a. In lieu of subsections 17.q. (1) and 17.q. (2) of the general crop insurance policy, a unit will be all insurable acreage of an insurable type of tobacco in the county at the time insurance first attaches:

(1) In which you have a share; and

(2) Which is identified by a single ASCS Farm Serial Number.

b. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy.

c. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause those units to be combined.

9. Notice of damage or loss.

In addition to the provisions in section 8 of the general crop insurance policy:

a. You may not destroy any tobacco on which an indemnity will be claimed until we give consent;

b. For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field; and

c. Notice must be given immediately if the tobacco is destroyed or damaged by fire during the insurance period.

10. Claim for Indemnity.

a. An indemnity will be determined for each unit by:

(1) Subtracting from the amount of insurance for the unit, the value of the total production of tobacco to be counted (see section 10.b.); and

(2) Multiplying the remainder by your share.

b. The value of the total production to be counted for a unit will include the value of all harvested and appraised production.

(1) Production to count will include:

(a) The gross returns (less six cents per pound for warehouse charges) from tobacco sold on the warehouse floor;

(b) The fair market value of the tobacco sold other than on the warehouse floor;

(c) The fair market value of the tobacco harvested and not sold;

(d) The fair market value of any unharvested tobacco as if such tobacco were harvested and cured; and

(e) The current year's support price per pound (less six cents per pound for warehouse charges) for appraisals made by us for poor farming practices or uninsured causes of loss. (If a price support program is not in effect, such appraised production will be valued at the market price for the current crop year).

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise

disposed of, and if the best offer you receive for any such tobacco is considered by us to be inadequate, to obtain additional offers on your behalf.

(3) The value of appraised production to be counted will include:

(a) The value of unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the average amount of insurance per insured acre for the unit for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Not less than 35 percent of the average amount of insurance per insured acre for the unit for all other unharvested acreage;

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tobacco becomes general in the county and reappraised by us;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use and reappraised by us.

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

(6) No replanting payment will be made under this endorsement.

11. Cancellation and termination dates.

The cancellation and termination dates are April 15.

12. Contract changes.

Contract changes will be available at your service office by December 31 prior to the cancellation date.

13. Meaning of terms.

a. "Carry-over tobacco" means any tobacco on hand from the previous year's production.

b. "County" means the land defined in the general crop insurance policy and any land identified by an ASCS Farm Serial Number for the country but physically located in another county.

c. "Effective poundage marketing quota" means the farm marketing quota as established and recorded by ASCS.

d. "Farm Yield" means the yield per acre used by ASCS in establishing the basic farm marketing poundage quota for the tobacco farm unless we have established a yield for the farm in the acturarial table.

e. "Harvest" means the completion of cutting or priming of tobacco on any acreage from which at least 20 percent of the production guarantee per acre shown by the acturial table is cut or primed.

f. "Market price" for a crop year means the average auction price for the applicable type (less six cents per pound for warehouse charges) in the belt or area. The market price will be designated by the actuarial table.

g. "Planting" means rounding up for ½ and above and rounding down for less than ½.

i. "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program. For any crop year in which a price support for the insured type is not in effect, the market price for that crop year will be used.

Done in Washington, DC, on November 17, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-27355 Filed 11-27-87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 401

[Amdt. No. 23; Doc. No. 4942S]

General Crop Insurance Regulations; Quality Potato Option

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.132, Quality Potato Option. The intended effect of this rule is to provide the regulations containing the provisions of crop insurance protection on potato quality as an option to the potato endorsement (7 CFR 401.128), under the general crop insurance policy which contains the standard terms and conditions common to most crops.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than December 30, 1987, to be sure of consideration.

ADDRESSES: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is as October 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies tht this action will not incease the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was preapred.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Orer 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.132, the Quality Potato option, effective for the 1988 and succeeding crop years, to provide the provisions for insuring potatoes against loss of quality.

Upon publication of 7 CFR 401.132 as a final rule, the provisions for insuring potatoes contained therein will be applicable to the Northern Potato Endorsement to be issued as 7 CFR 401.128.

The Quality Potato Option provisions contained herein are for coverage against loss of quality and will be applied against mature production (hundredweight)(cwt.) to count.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

Crop Insurance; Quality Potato Option.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), proposed to be effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 (U.S.C. 1506, 1516).

2. A new § 401.132 is added to read as follows:

§ 401.132 Quality Potato Option.

The provisions of the Quality Potato Option for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Quality Potato Option

Insured's Name _____
Contract No. _____
Address _____
Crop Year _____
Identification No. _____
SSN _____
TAX _____

Upon our approval this option is applicable for the 19 crop year.

1. You must have a Federal Crop Insurance Potato Endorsement in force. The Endorsement provides guaranteed production on a hundredweight (cwt.) basis only.

2. You must submit a signed Quality Potato Option to us on or before the final date for accepting applications each crop year. Failure to submit a Quality Potato Option for each crop year will result in your potatoes being insured under the terms and conditions of the General Policy and Endorsement without the provisions of the Option.

3. If you elect this Option, all acreage of potatoes insured under the General Policy and Potato Endorsement must be insured under this option.

4. If you purchase the quality option in conjuction with any other potato option(s), the total production that can be lost under all options cannot exceed 100% of your potato guarantee.

5. In lieu of subsection 7.b. of the Endorsement, the mature production (cwt.) to count for a unit will include all harvested and appraised production as follows:

a. The production to count for any unharvested appraised mature production will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better according to U.S. Standards for Grades of Potatoes, by a factor on the approved APH form, and multiplying the result, not to exceed 1,000, by the number of cwt. of such potatoes.

b. The production to count for any potatoes stored:

(1) Without an acceptable inspection will be 100 percent of the gross weight of these potatoes; or

(2) With an acceptable inspection at the time of harvest and which, due to insurable causes, contains a portion of potatoes grading less than U.S. #2, will be determined by dividing the actual percentage of potatoes grading U.S. #2* or better according to U.S. Standards for Grades of Potatoes, by a factor on the approved APH form, and multiplying the result (not to exceed 1.000) by the number of cwt. of stored potatoes.

c. Any sold production which due to insurable causes, contains a portion of potatoes that grade less than U.S. No. 2* will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better according to U.S. Standards for Grades of Potatoes, by a factor on the approved APH form, and multiplying the result (not to exceed 1.000) by the cwt. of sold potatoes.

6. Your premium rate for quality potatoes will be set by the Actuarial Table.

7. "Factor" means the actual average percentage of potatoes grading U.S. No. 2 * or better, determined from your records. If more than four continuous years of records are available, the factor will be the simple average of the available records not to exceed 10 years. IF LESS THAN FOUR YEARS OF RECORDS ARE AVAILABLE, THE FACTOR WILL BE THE ONE CONTAINED ON THE ACTUARIAL TABLE. The Actuarial table may provide for factors by type.

Insured's Signature

Date

Corporation Representative's Signature and Code Number

Date

Done in Washington, DC. on November 16, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–27354 Filed 11–27–87; 8:45 am]

BILLING CODE 3410–08–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

High-Level Waste Licensing Support System Advisory Committee (Negotiated Rulemaking); Fourth Meeting

AGENCY: Nuclear Regulatory Commission.

* The actuarial table may provide U.S. No. 1.

ACTION: Notice of fourth meeting.

SUMMARY: The Nuclear Regulatory Commission will hold the fourth meeting of the High-Level Waste Licensing Support System Advisory Committee on December 14–15, 1987. The committee, established under authority of the Federal Advisory Committee Act (FACA), is tasked with developing recommendations for revision of the Commission's Rules of Practice in 10 CFR Part 2 related to the adjudicatory proceeding for the issuance of a license for a geologic repository for the disposal of high-level waste (HLW). The Committee is attempting to negotiate a consensus on proposed revisions related to the submission and mangement of records and documents for the HLW licensing proceeding.

DATE: The fourth meeting of the HLW Licensing Support System Advisory Committee will be held December 14–15, 1987, beginning at 10:00 a.m. on December 14 and 15.

ADDRESSES: The location of the December 14–15, 1987 meeting of the HLW Licensing Support System Advisory Committee is The Conservation Foundation, 1255 Twenty-Third Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: The fourth meeting of the HLW Licensing Support System Advisory Committee ("negotiating committee") is scheduled to include continued discussion of substantive issues related to a high-level waste licensing support system..

The following are the remaining meetings of the negotiating committee that are scheduled as of the date of this notice:

January 25–26, 1988—Denver, Colorado (location to be announced)
February 11–12, 1988—The Conservation Foundation, Washington, DC
March 23–24, 1988—Denver, Colorado (location to be announced)
April 18–19, 1988—The Conservation Foundation, Washington, DC
May 18–19, 1988—The Conservation Foundation, Washington, DC

Dated at Bethesda, Maryland, this 25th day of November 1987.

For The Nuclear Regulatory Commission.

Linda L. Robinson,

Acting Director, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 87-27568 Filed 11-27-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AGL-20]

Alteration to Transition Area, West Bend, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the West Bend, WI, transition area to accommodate a new LOC RWY 31 Standard Instrument Approach Procedure (SIAP) to West Bend Municipal Airport, West Bend, WI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before December 24, 1987.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 87-AGL-20, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinios 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AGL-20. The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near West Bend, WI.

The present transition area is being modified to accommodate a new LOC RWY 31 SIAP as well as increased use of the West Bend Municipal Airport by turbojet type aircraft. The alteration will consist of an expansion from the 7 mile radius to an 8.5 mile radius, and from the 8.5 mile radius to 11.5 miles southeast of the West Bend VOR with a 4.5 miles width on each side of the VOR 127 radial.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition Areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

West Bend, WI [Revised]

That airspace extending upward from 700 feet above the surface within an eight and one-half (8.5) mile radius of the West Bend Municipal Airport (Lat. 43°25'17"N., Long.

88°07'41"W); and within 4.5 miles each side of the TVOR 127 radial, extending from the eight and one-half (8.5) mile radius to 11.5 miles southeast of the TVOR, excluding the portion that overlies the Hartford, Wisconsin, transition area.

Issued in Des Plaines, Illinois, on November 9, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87-27364 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3296-7]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa County and Pima County; Carbon Monoxide Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice outlines EPA's currently intended approach to comply with the August 10, 1987 Order of the U.S. District Court for the District of Arizona that EPA promulgate by March 31, 1988, a Federal Implementation Plan (FIP), under section 110(c) of the Clean Air Act (CAA), 42 U.S.C. 7410(c), to bring about attainment of the national ambient air quality standards (NAAQS) for cabon monoxide (CO) in the Maricopa County (Phoenix) and Pima County (Tucson), Arizona CO nonattainment areas.

The State of Arizona submitted the Maricopa County portion of the State Implementation Plan (SIP) for CO to EPA on October 5, 1987. The Maricopa County Nonattainment Area Plan (Plan) does not demonstrate attainment of the NAAQS for CO as required by Part D (sections 171–178) of the CAA, 42 U.S.C. 7501–7508. EPA is inclined to believe that, absent additional state and local legislative action to adopt and implement certain control measures necessary to attain the CO NAAQS, the State is not making reasonable efforts to submit an approvable plan which fulfills the Part D requirements. Therefore, this notice also announces that EPA is initiating consultation proceedings with the Department of Transportation (DOT) according to the procedures outlined at 45 FR 24692 (April 10, 1980). This is a prerequisite to a proposal to impose highway funding restricitons under section 176(a) of the CAA, 42 U.S.C. 7506(a). EPA is not initiating consultation proceedings with DOT for Pima County at this time.

EPA is also soliciting in this notice public comment and technical input on two control measures EPA is considering for proposal in the FIP. Specifically, EPA is seeking comment on proposals to (1) require that all gasoline-type fuels for motor vehicles sold during the winter months (CO season) contain a minimum level of oxygen (O_2) content in the form of aliphatic alcohols and/or ethers (i.e., oxygenated fuels), and (2) require major employers to institute programs of incentives to reduce single-occupant vehicle commute trips by their employees (i.e., trip reduction ordinance).

DATES: Comments may be submitted to EPA at the address below on or before December 30, 1987.

ADDRESSES: Comments on this proposal should be sent to: Regional Administrator, Attention: Air Management Division, State Liaison Section (A–2–2), U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Wallace D. Woo, Chief, State Liaison Section, Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–7634, FTS: 454–7634.

SUPPLEMENTARY INFORMATION:

Background

Federal Implementation Plans

On September 23, 1986 [51 FR 33746], EPA published a final notice disapproving the CO Plans for both the Maricopa and Pima County Nonattainment Areas, and announcing that, as a result, a construction ban on major new sources and major modifications to sources of CO would go into effect in both areas thirty days later, pursuant to section 110(a)(2)(I) of the CAA, 42 U.S.C. 7410(a)(2)(I).

On August 10, 1987, the U.S. District Court for the District of Arizona ordered EPA to promulgate by March 31, 1988, a FIP for CO in the Maricopa and Pima Counties Nonattainment Areas. The Court found that EPA's duty to promulgate a FIP arose when EPA found the State Plans were inadequate. The Court Order is the result of a citizen suit brought against EPA on April 8, 1985, by the Arizona Center for Law in the Public Interest (ACLPI).

The Court denied EPA's motion that the Court not set a six-month schedule for promulgation of a FIP, but did so without prejudice to the Agency's ability to return to the Court, no earlier than the end of 1987, to seek a longer schedule, if appropriate at that time.

Section 176(a) Sanctions

On February 10, 1986, EPA published a Notice of Intent in the **Federal Register** [51 FR 4934] which stated EPA's intent to initiate rulemaking to impose the highway funding restrictions under section 176(a) of the CAA by the end of 1986 if, by then, EPA had made the preliminary determination that the State was not making reasonable efforts to submit an approvable SIP. [See section 176(a)(3).] The same notice set forth the factors EPA would consider in determining if the State was making reasonable efforts to submit plans which met the Part D requirements.

Interim SIP revisions were adopted locally and submitted to EPA from the two nonattainment areas in December of 1986. EPA performed a preliminary analysis of the interim revisions based on the factors listed in the February 10, 1986, notice. On January 14, 1987, EPA made a preliminary determination that it had no basis to conclude that the State was not making reasonable efforts and hence no grounds existed at that time to initiate section 176(a) highway funding sanctions against either of the two nonattainment areas.

The ACLPI requested the District Court to review this preliminary determination and order EPA to impose the section 176(a) sanctions. The Court, however, found that it lacked subject matter jurisdiction and dismissed ACLPI's request. The Court's ruling does not affect EPA's authority to find that the State is not making reasonable efforts and, on that basis, to impose highway funding sanctions in Arizona under section 176(a).

The remainder of this notice set forth EPA's current view of the legal requirements that must guide the Agency's response to the Court's Order, the status of the local CO Plans in the two areas, and EPA's current approach to filling the gaps left by those local Plans in accordance with the Court's Order.

Interpretation of Part D and Section 110(c)

The Clean Air Act does not specify the timeframe within which a federally promulgated plan must provide for attainment of ambient air quality standards. We may draw analogies, however, from the recently issued national policy for State plans addressing nonattainment of the CO (and ozone) standards after December 31, 1987. EPA believes that any SIP promulgated after that date must

demonstrate attainment of the standard as expeditiously as practicable but no later than the date derived from the attainment periods described in sections 110(a)(2)(A) and 110(e) of the CAA. In short, this is because planning for attainment by 1987 will be physically (and hence legally) impossible in 1988, and the history of the CAA suggests strongly that Congress would have chosen to apply the section 110 (or similar) periods in these circumstances rather than requiring a demonstration of immediate attainment.[1]

Section 110(a)(2)(A) requires a demonstration of attainment within 3 years of EPA's approval of a SIP. Section 110(e) provides an extension of up to 2 years beyond the 3-year period where:

(A) One or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plans which implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such 3-year period, and

(B) The State has considered and applied as part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the 3 years cannot be achieved.

Following the analogy to schedules SIPs must meet, EPA plans to consider the economic feasibility and reasonableness of the available means of attainment in issuing a SIP. Thus, EPA's FIP will require attainment within 3 years unless there is a showing that the implementation of the "reasonably available alternative means" (RAAM) would not bring about attainment within 3 years. However, those RAAM must be applied to achieve progress within the 3-year period.

EPA believes that the Maricopa area will not be able to attain the CO standard by the 3-year date in section 110(a)(2)(A) without measures beyond those currently considered "reasonably available". Stated differently, while some reasonably available measures are available for implementation within that period, they will not by themselves produce attainment in the Maricopa area. For this reason, it appears that the Maricopa area should qualify for a two-year extension for the purpose of EPA's FIP. By contrast, it appears that the Pima CO area can attain the standard within the 3-year period with reasonably available measures. For that reason, the 3-year period would apply to any FIP for the Pima area.

[1] Congress's 1977 decision to create two new consecutive three-five year planning periods in reaction to the failure of the 1970–1977 planning process is one indicator that Congress rejected the concept of calling for immediate attainment after the passage of the statutory attainment dates.

Current Planning Efforts In Arizona

Maricopa County

Arizona submitted the Maricopa County CO SIP Revision to EPA on October 5, 1987. This Plan, prepared by the Maricopa Association of Governments (MAG) as lead planning agency, lacks an adequate demonstration of attainment although it does show that attainment of the CO NAAQS is possible as early as 1990 and in any event by 1995 if certain additional measures are adopted by the State and local jurisdictions. Among these additional measures are the legislative authority to require the sale of oxygenated motor vehicle fuels during the CO season and the adoption of an employer-based trip reduction ordinance (TRO) by Maricopa jurisdictions. The Plan does not contain either the legislative authority to implement an alternative fuels program, or legally enforceable commitments by Maricopa County localities and jurisdictions to implement trip reduction ordinances.

EPA believes that these measures, combined with the implementation of the transportation control measures already committed to in the Maricopa County Plan, will provide sufficient omission reductions to demonstrate attainment of the CO NAAQS within three to five years. MAG studies on the feasibility and effectiveness of implementing these measures in Maricopa are expected to be completed by the end of 1987 with recommendations for implementation to be made to the appropriate agencies at that time or very shortly thereafter.

Pima County

EPA is expecting the State to submit the Pima County CO Plan by the end of December, 1987. The Pima County Plan, being developed by the Pima Association of Governments (PAG) as lead air quality planning agency, will most likely demonstrate attainment of the CO NAAQS by approximately 1991. The major strategies in the Pima CO Plan include the Arizona inspection and maintenance program (I/M) as expanded through 1987, an employer-based trip reduction ordinance, and additional ridesharing, transit and flow improvements. The City of Tucson, the major transit provider in Pima County, voted on November 3, 1987, for a budget override to allow expansion of its transit system.

EPA's Approach to the State's Submittals

EPA will complete evaluation of the Maricopa and Pima CO Plans within the next months and will continue to work with MAG, PAG, their local jurisdiction, and the State to strengthen the Plans where necessary. The Arizona Legislature has appointed a joint legislative committee to study a program for oxygenated motor vehicle fuels in the State and will make its recommendations back to the Legislature by the end of 1987. In addition, MAG is developing a model TRO to be adopted by local jurisdictions by the Spring of 1988. Pima County jurisdictions are also developing TRO's for adoption by Spring of 1988. EPA strongly encourages the completion of these efforts because they are clearly needed to bring about attainment of the CO standard, at least in the Maricopa CO nonattainment area.

It is EPA's intention to propose rulemaking action on the control strategies in these State Plans by January or February, 1988. This will ensure that measures, for which there are already adequate state and local legal authority and firm commitments in the Plans, are formal, federally enforceable parts of the Arizona SIP.

FIP Approach

To promulgate a FIP for these two areas in Arizona, EPA must select control measures that, as described above, fill the gaps left by the State plans and thereby bring about attainment of the CO standard in the near term. In choosing among control options, EPA must try to serve the general principles of the Clean Air Act, including the goals of minimizing both the amount of federal intrusion into an area that is primarily the State's responsibility (see section 101 of the CAA, 42 U.S.C. 7401) and the imposition of avoidable unreasonable costs on the local population. To serve these goals, EPA has preliminarily reviewed the array of available control measures which could fill the gap remaining in the State CO Plans and has concentrated on those measures likely to result in timely attainment with the least cost and Federal intrusion.

When developing its Plan, MAG looked at an extensive list of measures, selecting some forty-six to include in the Plan and rejecting seven. These rejected measures were elimination of all waivers in the State's I/M program, a one-dollar gas tax increase, mandatory no drive days, a registration fee structure which would encourage the

replacement of older vehicles, maximum parking requirements for new developments, increased parking meter rates, and relocation of major traffic generators from highly congested areas. MAG did not include these measures in its Plan because they were either too drastic or placed an unfair burden on one segment of the population. EPA has reviewed this list of rejected measures as well as the measures recommended in the Plan which lacked either legal authority or commitments (alternative fuels, winter daylight savings time, and trip reduction ordinances) and other measures such as gas rationing, parking fees, and the mitigation of the air quality impacts of new development to determine possible FIP measures. EPA rejected several measures for consideration in a FIP because of a lack of regulatory authority for them (gas tax, registration fees, maximum parking requirements, mitigation of new development, parking meter rate increases, parking fees, and winter daylight savings time).[2] EPA further rejected measures because of their economic and social impacts (mandatory no drive days, relocation of sources, and gas rationing). This left the elimination of waivers in the I/M program, alternative fuels, and trip reduction ordinances as measures that EPA had legal authority to promulgate and could feasibly implement in the short term. The State's current I/M program operates effectively and represents a very important part of the existing CO control strategy. Because any attempt by EPA to assume operation of the program, which might become necessary if EPA wished to change its requirements, could only adversely impact its performance, EPA decided against making modification to the State's I/M program. Thus, EPA determined that alternative fuels and a trip reduction ordinance are the most feasible measures for federal promulgation in Arizona.

Maricopa County

From its analysis of available control measures, EPA is considering regulations requiring the use of oxygenated fuels in motor vehicles and the establishment of an employer-based trip reduction program for promulgation in a FIP for the Maricopa area. These measures offer the greatest feasible emission reduction potential for attainment of the CO NAAQS in the nearest possible term. Preliminary modeling analyses on the effectiveness of these measures indicate that the emission reductions will be sufficient to reduce concentrations of CO in Maricopa County to below the NAAQS within 3 to 5 years. In addition, these measures were recommended for adoption in the MAG CO Plan and, therfore, have already undergone significant local debate and approval, although adoption or commitments to adopt by the appropriate implementing agencies are still lacking.

Although this notice does not describe these control strategies in detail, the following discussion lists some of the elements EPA will be considering in regard to these measures when it proposes rulemaking on the FIP. At this time EPA is soliciting comments on these elements as well as on other elements or measures EPA should be considering in a proposed FIP.

EPA is specifically considering a measure to require that all gasoline-type fuel sold during the CO season (winter months) contain a minimum level of oxygen (O) content in the form of aliphatic alcohols and/or ethers. Oxygenated fuel blends currently on the market include methyl-tert-butyl ether (MTBE) blends, ethanol (gasohol) blends, and methanol/cosolvent blends.

With respect to oxygenated fuels, EPA is considering a number of elements in formulating a proposal for the promulgation of a rule. These elements include: (1) The mass content of oxygen in the fuel blends; (2) the area of coverage required for an effective oxygenated fuels program; (3) the potential CO emission reductions from each oxygenated fuel blend option considered for the Maricopa area; (4) the effective date of the oxygenation requirement and what phase-in or temporary exemptions should be allowed; (5) the timeframe of the oxygenation requirement; (6) the impact of oxygenated fuels on vehicles with respect to maintenance and driveability; (7) what requirements, if any, should be imposed on fuel quality (for example, volatility), and how those relate to present state law in Arizona; (8) federal enforceability of such a rule; and (9) the effect of a promulgated program on small businesses (as required by federal law).

Section 211(c)(4) of the CAA states that the Administrator may promulgate an implementation plan containing a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle only if he finds that the control or prohibition "is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements." EPA interprets this section to require the Agency, prior to promulgating an oxygenated fuels rule, to find that such a requirement is necessary for "timely" attainment of the standard. Beyond that, EPA believes that a fuel control may be "necessary" for timely attainment if other measures that would bring about timely attainment, although technically possible, are unreasonable or impractical. Otherwise, no fuel control would ever be "necessary" since for any area there is at least one available measure—namely required shutdowns and prohibitions on driving—that would result in timely attainment. It is doubtful that Congress would have intended to bar EPA from putting fuel controls in a FIP just because such drastic alternatives are available. A more reasonable interpretation of section 211(c)(4) is that a fuel control measure may be necessary for timely attainment if the emission reductions that the measure would produce are necessary and the alternatives that would achieve equivalent reductions are significantly more costly and burdensome for the local population than the fuel control measure.

EPA believes, at least for purposes of Maricopa County, that the alternatives to an oxygenated fuels requirement would be substantially more costly and burdensome. As discussed above, the types of measures that would produce emission reductions equivalent to an oxygenated fuels measure are, in the relevant timeframe (1990–1993), so intrusive and costly to the local economy and the personal driving habits of the local inhabitants as to be unreasonable. For this reason, EPA is inclined to believe, for purposes of section 211(c)(4), that an oxygenated fuels requirement is necessary for timely attainment in the Maricopa County Nonattainment Area.

With respect to trip reduction ordinances, a possible approach is to require that major employers institute programs of incentives to reduce single-occupant vehicle commute trips by their employees. In evaluating and developing a proposed TRO for Arizona, EPA will draw on the experience of those communities which have adopted such ordinances (e.g., Pleasanton, Concord, Los Angeles, Sacramento) and those which are currently evaluating

[2] Gas taxes and registration fees require taxing authority that is reserved to the legislative branch. Review of new development for mitigation or restrictions on parking construction is indirect source review which is prohibited to EPA under section (a)(5)(A)(ii) of the CAA. Parking fees and increases in the parking meter rates are parking surcharges which are prohibited to EPA under section 110(c)(2)(B) of the CAA. Authority to establish or regulate daylight savings time is reserved to the U.S. Department of Transportation's Office of General Counsel under the 1966 Uniform Time Act.

ordinances for adoption (e.g., South Coast Air Quality Management District, Pima County, Santa Clara). EPA will also carefully evaluate the model ordinance being developed for the Phoenix area by the MAG consultant, KT Analytics, Inc.

Issues that EPA will be examining include: the size of employer to be regulated, the incentives/disincentives that could be offered by the employer, the trip reduction goals to be met by the employer, the ability of the employer to meet the TRO goals, the methods of enforcement and monitoring of implementation, the public and private costs, the non-air quality benefits such as congestion relief and energy conservation, the impact on other transportation control measures such as ridesharing and transit, and most importantly, the potential effectiveness at reducing carbon monoxide emissions.

Pima County

The timeframe specified in the Court Order for EPA to promulgate a FIP is 6 months, following either the formal submittal of the Pima CO Plan or September 30, 1987, whichever came first. EPA believes that, since the schedule was dependent on Pima's plan submittal, the Court wanted EPA to analyze the Pima CO Plan before determining whether promulgation of a FIP for the County was necessary.

The draft Pima County CO Plan indicates that the area will attain the CO standard by approximately 1991. If the final Plan supports the attainment and maintenance demonstration of the Draft, EPA believes that a FIP for Pima County will not be necessary.

Action Under Section 176(a) of the CAA

As discussed earlier, EPA published a Notice of Intent on February 10, 1986 [51 FR 4934] which set forth criteria EPA would use to determine whether the State was making reasonable efforts to submit a plan meeting Part D requirements. One of these criteria specified that EPA receive a plan with commitments by relevant state and local agencies to implement [or evidence of actual implementation of] all additional Co emission reduction measures necessary to demonstrate attainment of the CO NAAQS as expeditiously as practicable.

Maricopa County

EPA reiterated the above criteria in subsequent correspondence with the Maricopa Association of Governments (letters, Howekamp to DeBolske, 11/14/86 and 3/20/87) and stated that delays in the SIP revision schedule would not be acceptable, and that the CO plan must contain legally enforceable commitments to implement the control measures necessary to demonstrate attainment of the standard as expeditiously as practicable. In both letters, EPA stated that it would use these criteria for determining if the State and Maricopa County were making reasonable efforts to submit a SIP revision.

It is EPA's preliminary assessment that, had the Maricopa CO Plan included legal authority to implement the measures discussed (i.e., oxygenated fuels for motor vehicles and trip reduction ordinances), the State would have demonstrated that reasonable efforts had been made to submit a plan providing for attainment of the CO standard. Despite the advanced notice that EPA gave of the requirements (as early as February 10, 1986), the State still has not submitted a plan containing such authority. Because of this, EPA is inclined to find that the State is not making reasonable efforts with respect to the Maricopa CO Plan; therefore, the Agency is initiating the consultation process with the U.S. Department of Transportation according to the procedures outlined in 45 FR 24692 (April 10, 1980). This process requires a minimum of 45 days consultation with U.S. DOT and the state and local agenices before EPA can propose the section 176(a) highway funding restrictions.

Pima County

The Pima Association of Governments and its local jurisdictions are expected to finalize and the State of Arizona is expected to submit to EPA the final CO Plan for Pima County by the end of 1987. EPA expects that Plan to contain legal authority for and commitments to adopt and implement control measures sufficient to demonstrate both attainment of the CO NAAQS in the near term and maintenance of that standard in the long term. EPA, therefore, is not at this time initiating consultation with U.S. DOT on highway funding restrictions for Pima County. As it did for the Maricopa Plan, EPA will judge the final Pima Plan against the criteria of the February 10, 1986, Notice of Intent. If the final Plan fails to meet those criteria or the Plan is not submitted by December 31, 1987, EPA will then intiate consultation with U.S. DOT on the section 176(a) sanctions for Pima County.

Interested parties are invited to comment on all aspects of this advance notice.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: November 20, 1987.

John Wise,

Acting Regional Administrator.

[FR Doc. 87–27416 Filed 11–27–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcat Taken in 1987 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed findings and rule.

SUMMARY: This notice announces proposed findings by the Scientific Authority and Management Authority of the United States on the export of bobcats harvested in Kentucky and on the Fort Apache Indian Reservation by the White Mountain Apache Tribe and stipulates that monitoring procedures previously established for other States be extended to include Kentucky and the White Mountain Apache Tribe. The Service intends to make these findings to span a period not limited to a single harvest season.

On January 5, 1984 (49 FR 590), the Service published a rule granting export approval for bobcats (*Lynx rufus*) and certain other Convention-listed species from specified States for the 1983–84 and subsequent harvest seasons. The purpose of this proposed rule-making is to add the State of Kentucky and the White Mountain Indian Tribe to the list of States and Indian nations for which the export of bobcats is approved.

DATES: The Service will consider comments received on or before December 30, 1987 in making its final determination and rule.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240. Materials received will be available for public inspections from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of Scientific Authority, room 537, 1717 H Street, NW. Washington, DC or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Scientific Authority Finding—Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202–653–5948).

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 235–1903.

State Export Programs—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 235–2418.

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of the Convention may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection. Based on documentation presented for consideration by the Convention Parties in 1983, the United States Fish and Wildlife Service (the Service) has determined that the bobcat is listed on Appendix II for reasons of similarity in appearance under Article II.2(b) of the Convention.

Scientific Authority Findings

Article IV of the Convention requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the Scientific Authority and Management Authority of the exporting country. The Scientific Authority must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted.

The Scientific Authority for the United States must develop such advice on non-detriment for the export of Appendix II animals in accordance with section 1537(c)(2) of the Endangered Species Act of 1973 (the Act), as amended. The Act states that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any State to make, estimates of population size in making such determination or giving such advice."

The fur-bearer involved is managed by the wildlife agencies of individual States. Those States and Indian nations from which the Service has approved the export of bobcats in the 1983–84 and subsequent taking seasons were identified in the January 5, 1984, **Federal Register** (49 FR 590) and are listed in 50 CFR 23.52. Each State or Indian tribe or nation in which this animal is harvested has a program to regulate the harvest. Based on information received from the State of Kentucky and the White Mountain Apache Tribe, the Service proposes adding that State and that Indian Nation to those from which the export of bobcats is approved.

As indicated in the January 5, 1984 notice, the Service determined that populations of bobcat and certain other listed fur-bearers in the United States are considered as listed in Appendix II only because of similarity in appearance to other listed species, sub-species, or geographically separate populations. Evidence in support of such treatment is summarized in proposals submitted by the United States for consideration by the Fourth Meeting of the Conference of the Parties to the Convention in 1983 (see 47 FR 1242, January 11, 1982, and 47 FR 51772, November 17, 1982). The Conference of the Parties adopted a resolution accepting the report of the Convention's Central Committee on the ten-year review of species listed in Appendices I and II (Doc. 4.37 Annex 3). The report includes recommendations that these U.S. populaton fur-bearers should be considered as listed in Appendix II only because of similarity in appearance.

Article II, paragraph 2, of the Convention establishes that Appendix II shall include:

> (a) all species, which although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulations in order to avoid utilization incompatible with their survival; and
>
> (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Consistent with the determination that the bobcat is listed to enable trade in other species to be effectively controlled, the Scientific Authority should consider this control aspect when advising on non-detriment.

Marking of pelts with tags bearing the name of the species and the issuance of export permits naming the species being traded should be sufficient to address problems of identification due to similarity in appearance between bobcats and other species (see Management Authority findings for tag specification).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the Service will monitor the status of the fur-bearers addressed in this notice to (1) determine whether treatment of these fur-bearers, listed because of similarity in appearance, remains appropriate, and (2) detect any significant downward trends in the population and, where necessary, advise on more restrictive export controls in response to them. This monitoring and assessment will follow the same procedures adopted for other States (see 49 FR 590). The Service requests an annual certification from each State, Tribe or Nation in which the bobcat is harvested. When indicated by available information and more thorough review of accumulated data, a determination can be made about the treatment of this species and whether the management program needs to be adjusted in a particular State, Tribe or Nation.

Scientific Authority guidelines developed for bobcat export under the provisions of Convention Article II.2(a), which represent professionally accepted wildlife management practices, are presented in more detail in the August 18, 1983, **Federal Register** document (48 FR 37494). These guidelines are summarized as follows:

A. Minimum Requirements For Biological Information

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State, Tribe or Nation's choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum Requirements for a Management Program

(1) There should be a controlled harvest, methods and seasons to be a matter of State, Tribe, or Nation's choice.

(2) All skins should be registered and marked.

(3) Harvest level objectives should be determined annually by the State, Tribe or Nation.

The State of Kentucky has provided population density information based on home range studies conducted in those portions of the State in which taking will be permitted. They have also provided an evaluation of available habitat.

especially with regard to distribution of the bobcat, and possible trends in habitat condition as they may affect the bobcat. No bobcat harvest has been permitted in Kentucky since 1974, so recent information on harvest, harvest distribution, and age structure of a harvested population is not available for the State. However, new State bobcat regulations have restricted harvest to the eastern part of the State, i.e., the Cumberland Plateau Region, where information on density is available. Also, information based on location of road kills, scent stations, conservation officers sightings, anf fur-taker interviews in this region show that the distribution of the species appears to be relatively uniform. In addition, the State's regulations establish a season lasting from November 24 to January 31, or until the season's quota (set at 400 for 1987–88 season) is attained, whichever comes first.

Bobcat harvest on the Fort Apache Indian Reservation is limited to members of the White Mountain Apache Tribe. Initially, the tribe relied upon the State Game and Fish Department to control and monitor this take. However, the Tribal Game and Fish Department has assumed these responsibilities in recent years.

The White Mountain Apache Tribe provided information on population based on density in the various habitat types and harvest. In fact, the area involved is relatively small, approximately 2,400 square miles, and information on the status of bobcats in its Arizona ecoregion would provide more comprehensive assessment of harvest effects on survival of the species. The tribe reported a total harvest of only 34 bobcats in 1986–87 season. Nevertheless, it is important to address the White Mountain Indian Tribe separately in order to document all entities involved in tagging programs.

Based upon information presented by the State of Kentucky and the White Mountain Apache Tribe, including both entitie's bobcat regulations, and in consideration of the basis for the species' listing in Appendix II of the Convention, the Service proposes to issue Scientific Authority advice in favor of export of bobcats from Kentucky and the Fort Apache Reservation.

Management Authority Findings

Exports of Appendix II species are to be allowed under the Convention only if the Management Authority is satisfied that the specimens were not obtained in contravention of laws for the protection of the involved species. The Service, therefore, must be satisfied that the bobcat pelts, hides, or products were not obtained in violation of State, Tribal, Nation, or Federal law in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx, and river otter is provided by State, Indian tribe or nation tagging systems. The Service annually contracts for the manufacture and delivery of special Convention animal-hide tags for export-qualified States and Indian nations. States and Indian nations may use their own, Service-approved tags if they meet the requirements described below. The Service has adopted the following Management Authority export guidelines for the 1983–84 and subsequent taking seasons:

(1) Current State, Tribe or Nation hunting, trapping and tagging regulations and sample tags must be on file with the Federal Wildlife Permit Office;

(2) The tags must be durable and permanently locking, and must show State, Indian tribe or nation or origin, year of take, species, and be serially unique;

(3) The tag must be applied to all pelts taken within a minimum time after take, as specified by the State, Indian tribe or nation, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State, Indian tribe or nation;

(5) State, Indian tribe or nation registered-dealers or State, Indian tribe, or nation-licensed takers allowed to attach export tags must account for tags received and must return unused tags to the State, Indian tribe or nation within a specified time after taking season closes; and;

(6) Fully manufactured fur (or hide) products may be exported from the U.S. when accompanied by State or Indian nation tags removed from the pelts contained in the products; such tags must be surrendered to the Service prior to export.

Proposed Export Decision

The Service proposes to approve exports of bobcats harvested in the 1987 and subsequent seasons in Kentucky and the Fort Apache Indian Reservation on the grounds that both Scientific Authority and Management Authority guidelines are satisfied.

Comments Solicited

The Service requests coments on these proposed findings. Final findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

The proposal is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.). The authors are S Ronald Singer, Federal Wildlife Permit Office, and Dr. Charles W. Dane, Office of Scientific Authority.

Note: The Department had previously determined that the export of bobcats of various States, Indian tribes or nations, taken in the 1983–1984 and subsequent harvest seasons, was not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement was not required (48 FR 37494). Because these proposed findings do not significantly differ from the previous export findings, the previous determination not to prepare an Environmental Impact Statement on export of bobcats taken during the 1983–1984 and subsequent harvest seasons in certain states (49 FR 590) remains appropriate. The Department had also previously determined that such harvest was not a major rule under Executive Order 12291 and did not have a significant economic affect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). Because the existing rule treats exports on a State-by-State and Indian nation by Indian nation basis and proposes to approve export in accordance with a State or Indian nation management program, the rule will have little effect on small entities in and of itself. This proposed rules does not contain any information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87, 884, 16 U.S.C. 1531–1543.

Subpart F—Export of Certain Species

2. In § 23.52 add new paragraph (i) as follows:

§ 23.52 Bobcat (Lynx rufus).

* * * * *

(i) *1987 and subsequent harvests:* Kentucky and Fort Apache Indian Reservation. Condition on export: Each pelt must be clearly identified as to species, State, Indian tribe or nation of origin, and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State, or Indian nation tags removed in a manner described by the Service from pelts contained in the products; such tags must be removed by cutting the tag strap on the feamle side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: October 22, 1987.

[FR Doc. 87-27342 Filed 11-27-87; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 52, No. 229
Monday, November 30, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Commodity Certificates Acceptance After Expiration Date

AGENCY: Commodity Credit Corporation (CCC), Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: In accordance with the terms and conditions of the Commodity Credit Corporation (CCC) price support and production adjustment programs, a portion of the payments made by CCC were made in the form of commodity certificates which could be used to acquire commodities owned by CCC. In order to provide greater flexibility to producers who received such certificates, it has been determined that CCC will accept, for cash, certain generic commodity certificates presented after the expiration date stated on the certificates which are in the possession of the first holder of such certificates. This action is being taken pursuant to the regulations governing Commodity Certificates, In Kind Payments and Other Forms of Payment (7 CFR Part 770). 7 CFR 770.4(d)(6) provides that CCC may, at its option, discount or refuse to accept any commodity certificate presented after the expiration date stated on the certificate.

DATE: November 30, 1987.

ADDRESS: Director, Fiscal Division, USDA–ASCS, Room 6094, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: David Nichols, Supervisory Systems Accountant, Fiscal Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 447–6616.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "non-major". It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The notice is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 17 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Exchange of Generic Commodity Certificates

Certain commodity certificates, as provided for in 7 CFR 770.4(f), which are issued by CCC may be exchanged for cash. Some original holders of generic commodity certificates were unaware of the importance of using the certificates in their possession before the expiration date stated on the certificate. Therefore, it has been determined that original holders of generic commodity certificates with expiration dates that have passed may present such certificates for cash. This option is limited to those certificates which were issued to producers under CCC price support and production adjustment programs.

Original holders of certificates may apply for payment by returning such certificates to the Agricultural Stabilization and Conservation Services (ASCS) county office where such certificates were issued. A written request that payment be made for cash must be presented with the certificates. County Agricultural Stabilization and Conservation (ASC) Committees will review all requests and, upon approval, will authorize payments.

Original holders of certificates with expiration dates of December 31, 1986, through April 30, 1987, have until October 31, 1987, to request an exchange for 85 percent of the face value of the certificates. Original holders of certificates with expiration dates of May 1, 1987, or later have from the expiration date on the certificate till the end of the sixth month after the expiration date to request a cash exchange for 85 percent of the certificate's face value.

Original holders of certificates who miss the October 31, 1987, or the 6-month deadline, have until 18 months after the expiration date on the certificate to request a cash exchange for 50 percent of the certificate's face value.

As required by the Balanced Budget and Emergency Deficit Control Act of 1985, 4.3 percent will be deducted from the payments made with respect to certificates issued under the 1986 price support and production adjustment programs.

In no case may such certificates be exchanged for commodities in CCC inventory.

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c); secs. 103A and 107E of the Agricultural Act of 1949, as amended, 99 Stat. 1047, as amended, 1448 (7 U.S.C. 144–1 and 1445b–4).

Signed at Washington, DC, on October 20, 1987.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87–27397 Filed 11–27–87; 8:45 am]

BILLING CODE 3410–05–M

ARCTIC RESEARCH COMMISSION

Meeting

Notice is hereby given that the Arctic Research Commission will meet in San Francisco, California, December 11, 1987. The Commission meeting will be held at the Cathedral Hill Hotel, 1101 Van Ness Avenue, Room 373, San Francisco, California, from 9:00 a.m. to 3:00 p.m.

Matters to be considered include: 1. Approval of Report of Last Meeting, 24 September 1987, 2. Comments from Congress, 3. Comments from the Interagency Arctic Research Policy Committee, 4. Comments from the Governor, State of Alaska, 5. Five-Year Plan for Arctic Research-Status of Implementation, 6. Mechanisms for International Cooperation in Arctic Research, 7. Arctic Data and Information Systems, 8. Logistic Requirements to Support Arctic Research, 9. National Arctic Research Consortium, 9. Federal/State Cooperation in Arctic Research, 10. Arctic Research Commission's Annual Report to the President and Congress, 11. Other Business, and 12. Next Meeting.

The Commission will also meet in Executive Session on December 11, 1987, from 4:00 p.m. to 6:00 p.m. Matters to be discussed in Executive Session include: 1. Commission Budget, 2. Location of Commission Offices, and 3. Commission Membership.

Contact Person for More Information:

W. Timothy Hushen, Executive Director, Arctic Research Commission (213) 743–0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 87–27403 Filed 11–27–87; 8:45 am]

BILLING CODE 7555–01–M

CIVIL RIGHTS COMMISSION

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Colorado Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4:30 p.m. on December 14, 1987, at the Radisson Hotel, 1550 Courts Place, Denver, Colorado 80202. The purpose of the meeting is to discuss information gathered by the Committee on the impact of the implementation of the Immigration Reform and Control Act and to plan Committee programming.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxine Kurtz, or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 19, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27404 Filed 11–27–87; 8:45 am]

BILLING CODE 6335–01–M

Indiana Advisory Committee; Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Indiana Advisory Committee to the Commission scheduled for December 11, 1987, at the Embassy Suites, 110 West Washington, Indianapolis, Indiana has been cancelled.

Dated at Washington, DC, November 23, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27405 Filed 11–27–87; 8:45am]

BILLING CODE 6335–01–M

South Dakota Advisory Committee to the U.S. Commission on Civil Rights Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on December 10, 1987, at the Holiday Inn, Assembly Room, 100 8th Street, Sioux Falls, South Dakota. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Francis Whitebird, or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 16, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27406 filed 11–27–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 35–87]

Foreign-Trade zone 26, Atlanta, GA; Application for Subzone, Yamaha Golf Cart and Water Vehicle Plant, Coweta County, GA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 26, requesting special-purpose subzone status for the golf cart and water vehicle manufacturing plant of Yamaha Motor Manufacturing Corporation of America (Yamaha), located in Coweta County, Georgia, adjacent to the Atlanta Customs port of entry.

The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 17, 1987.

The Yamaha plant is located on a 238-acre site at Highway 34 and Almajack Blvd. in Coweta County. The facility, which is currently under construction, will employ over 300 persons to manufacture golf carts and water vehicles. Yamaba currently exports these products to the United States from Japan. The major components to be assembled at the Coweta County plant are engines, propulsion pumps, steering systems, plastic for body coverings, axles and wheels, and tubing for the frames.

Initially, Yamaha will import all components as kits for assembly. With subzone status the company would begin using domestic components. Within a few years, the company plans to purchase all components other than gasoline engines and propulsion pumps from domestic sources.

Zone procedures would exempt Yamaha from Customs duty payments on the foreign materials used in its exports. On its domestic sales, the company would be able to defer duty payments and to pay duties at the rate applicable to complete vehicles. The duty rate on the golf carts is 2.5 percent and the rate on the water vehicles is 1.5 percent, whereas the range of duty rates for the components is from 0.0 to 12.0 percent (e.g. engines-0.0%; pumps-3.0%). The application indicates that zone procedures will encourage the company to use domestic components since imports of kits containing all components are dutiable at the finished product rate.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 909 Buckell Pl., Room 7322, Miami, FL 33130; and Colonel Stanley G. Genega, District Engineer,

U.S. Army Engineer District Savannah, P.O. 889, Savannah, GA 31402.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before January 12, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1365 Peachtree St, NE, Suite 504, Atlanta, GA 30309

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th & Pennsylvania, NW., Washington, DC 20230

Dated: November 20, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-27466 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 36-87]

Foreign-Trade Zone 124, Gramercy, LA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Louisiana Port Commission (Port Commission), grantee of Foreign-Trade Zone 124, requesting authority to expand the zone to include a site in St. Charles Parish, adjacent to the Gramercy Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 19, 1987.

The current zone, approved in December 1985, comprises three sites in the parishes of St. Charles, St. John the Baptist and St. James (1,050 acres).

The expansion would involve a mixed-used business park site in Destrahan, Louisiana, known as the Plantation Business Campus (PBC) (213 acres). The site is located on the east bank of the Mississippi River, bounded by State Highway 48 at River-Mile-Point 121. It is owned and will be operated by Joseph C. Canizaro Interests. No manufacturing approvals were sought in the application.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, Louisiana 70130; and Colonel Lloyd K. Brown, District Engineer, U.S. Army Engineer District, New Orleans, P.O. Box 60267, New Orleans, Louisiana 70160-0267.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before January 14, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 432 World Trade Center, No. 2 Canal Street, New Orleans, Louisiana 70130

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Room 1529, Washington, DC 20230.

Dated: November 23, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-27467 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Short-Supply Review on Certain Steel Products; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of requests for short-supply determinations under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain rotogravure doctor blade steel strip, certain coater blade steel strip, certain T-4 feeler gauge steel, and certain flat-rolled carbon spring steel.

DATE: Comments must be submitted on or before December 10, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC. 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product* * *."

We have received short-supply requests for the following products:

1. Certain Rotogravure Doctor Blade Steel Strip: 1 percent carbon, cold-rolled, hardened, tempered, polished, coiled, in thicknesses ranging from 0.00315 to 0.010 inch and in widths ranging from two to seven inches.

2. Certain Coater Blade Steel Strip: 1 percent carbon, cold-rolled, hardened, tempered, polished, coiled, in thicknesses ranging from 0.012 to 0.050 inch and in widths ranging from 2.50 to 4.25 inches.

3.

Certain Swedish T-4 Feeler Gauage Steel: general specification AISI 1095, hardened, tempered, bright polished, round polished edges in thicknesses ranging from 0.001 to 0.065 inch, and in widths of 0.250 inch and 0.505 inch.

4. Certain Flat-Rolled Carbon Spring Steel: general specification AISI 1080, hardened, tempered, grinded, polished, in coils, in thicknesses ranging from 0.038 to 0.090 inch and widths ranging from 0.120 to 0.875 inch.

Any party interested in commenting on these requests should send written comments as soon as possible, and no later than December 10, 1987. Comments should focus on the economic factors involved in granting or denying these requests.

Commerce will maintain each request and all comments on each request in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file.

The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

November 23, 1987.

[FR Doc. 87-27468 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Semi-Finished Steel Slabs; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Korea Arrangement Concerning Trade in Certain Steel Products, with respect to various sizes and grades of carbon semi-finished steel slabs.

DATE: Comments must be submitted no later than December 10, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC, the U.S.-Brazil, and the U.S.-Korea steel arrangements provide that if the U.S. determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product.

We have received a short-supply request for carbon semi-finished steel slabs ranging from 4 to 12 inches in thickness and 60 to 85 inches in width, having a maximum weight of 47,000 pounds, and used to produce ASTM specification A–36 and A–285 grade C plate.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than December 10, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce, at the above address.

Dated: November 20, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87–27469 Filed 11–27–87; 8:45 am]

BILLING CODE 3510–DS–M

Argonne National Laboratory, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 87–120. Applicant: Argonne National Laboratory, Argonne, IL 60439. Instrument: Mass Spectrometer, Model MS50TC with Accessories. Manufacturer: Kratos Analytical, United Kingdom. Intended Use: See notice at 52 FR 8635, March 19, 1987. Reasons for this Decision: The foreign instrument provides a dynamic resolution of 80 000 (10% valley definition), a mass range to 16 000 amu, fast atom bombardment and pyrolysis/ thermal disorption mode. Date Ordered: September 26, 1986.

Docket No.: 87–179. Applicant: U.S. Department of Energy, Argonne, IL 60439. Instrument: Electron Energy Analyzer, Model HA50/4L and Accessories. Manufacturer: VSW, United Kingdom. Intended Use: See notice at 52 FR 19904, May 28, 1987. Reasons for this Decision: The foreign instrument provides either single channel or multichannel detection modes for conducting XPS, AES, ISS, HREELS or ARIES surface analysis, a 2-axis goniometer and an energy analysis range of 10 to 5000 eV. Date Ordered: November 24, 1986.

Docket No.: 87–114. Applicant: University of Missouri-Columbia, Columbia, MO 65211. Instrument: Mass Spectrometer System, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended Use: See notice at 52 FR 10395, April 1, 1987. Reasons for this Decision: The foreign instrument provides precise measurement of stable isotopes C, N, O, S and H (internal precision <0.02 °/00 for CO_2) with a zero enrichment <0.005 °/00. Date Ordered: February 9, 1987.

Docket No.: 87–188. Applicant: University of Michigan, Ann Arbor, MI 48109–1063. Instrument: Thermal Ionization Mass Spectrometer, Model VG Sector. Manufacturer: VG Isotope, Limited, United Kingdom. Intended Use: See notice at 52 FR 27041, July 17, 1987. Reasons for this Decision: The foreign article provides automatic simultaneous measurement of masses 84, 85, 86, masses 85, 86, 87 and 86, 87, 88. Date Ordered: April 22, 1987.

Docket No.: 87–222. Applicant: University of Michigan, Ann Arbor, MI 48109–1063. Instrument: Mass Spectrometer, Model VG Sector. Manufacturer: VG Isotopes Ltd., United Kingdom. Intended Use: See notice at 52 FR 30942, August 18, 1987. Reasons for this Decision: The foreign instrument is an automated TIMS capable of simultaneous measurement of masses 142 thru 147 and 150 and also capable of simultaneous measurement of masses 84 thru 88. Date Ordered: February 2, 1987.

Docket No.: 87–071. Applicant: University of Louisville, Louisville, KY 40292. Instrument: Stopped-Flow Sample Handling Unit, Model SF–51. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended Use: See notice at 52 FR 2126, January 20, 1987. Reasons for this Decision: The foreign instrument provides a 2.0 millimeter path length and a dead time less than 1.0 millisecond. Date Ordered: September 9, 1986.

Comments: None received. Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as each instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time each foreign instrument was ordered. The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable

delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particlar case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in these cases, received no timely response to a formal request for quotation, it is apparent that the domestic manufacturers were either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as each foreign instrument was intended to be used at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-27470 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

Beckman Research Institute of the City of Hope, et al., Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No: 83-336. Applicant: Beckman Research Institute of the City of Hope, Duarte, CA 91010. Instrument: High Resolution Mass Spectrometer, Model HX 100 and Accessories. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 48 FR51677, November 10, 1983. Reasons for this Decision: The foreign instrument provides a resolution to 150 000, a mass range to 4500 amu at 5 kV, and FAB capability. Date Ordered: May 31, 1983.

Docket No: 87-023R. Applicant: University of Alaska, Fairbanks, AK 99775-0800. Instrument: Image Photon Detector with Dual Ported Memory. Manufacturer: Hovemere Ltd., United Kingdom. Intended Use: See notice at 51 FR 42126, November 21, 1986. Reasons for this Decision: The foreign instrument provides an imaging capability five times more sensitive than conventional image orthicon TV systems for subvisual imaging. Date Ordered: September 26, 1986.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, was being manufactured in the United States at the time the instrument was ordered. The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes and we know of no domestic instrument or apparatus if equivalent scientific value to either of the foreign instruments for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

Fank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-27471 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

Department of Energy et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 87-192. Applicant: U.S. Department of Energy, Argonne, IL 60439. Instrument: Temporal Analyzer, Model C2280-50. Manufacturer: Hamamatsu, Japan. Intended Use: See notice at 52 FR 27037, July 17, 1987.

Docket No. 87-174. Applicant: The Pennsylvania State University, University Park, PA 16802. Instrument: Accessories for FT Spectrometer. Manufacturer: Bomem, Inc., Canada. Intended Use: See notice at 52 FR 18262, May 14, 1987.

Docket No. 87-242. Applicant: Argonne National Laboratory, Argonne, IL 60439. Instrument: Daly Scintillation Detector. Manufacturer: VG Isotopes, Ltd., United Kingdom. Intended Use: See notice at 52 FR 30940, August 18, 1987.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-27472 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

University of Minnesota; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85-200R. Applicant: University of Minnesota, Minneapolis, MN 55455. Instrument: Scanning Electron Microscope, Model QS-1. Manufacturer: CSIRO, Australia. Intended Use: See notice at 52 FR 5325, February 20, 1987. Reasons for this decision: No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (February 28, 1985).

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is a fully automated image analyzer providing an image analysis system which interprets X-ray and electron signals generated in a SEM producing a computer memory point, lineal or two-dimensional representations of mineral assemblages present in drill cores, ore or complex mineral particles.

The capability of the foreign instrument described above is pertinent to the applicant's intended purposes. Although there are domestically manufactured SEM's, modifying one comparable to the foreign instrument would be no trival engineering development effort. We know of no

domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-27473 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mammals; Issuance of Permit; Gulf Exhibition Corp. (P90D)

On August 11, 1986, notice was published in the **Federal Register** (51 FR 28741) that an application had been filed by the Gulfarium, Gulf Exhibition Corporation, Gulfarium on Highway 98, Fort Walton Beach, Florida 32548 for a permit to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on November 24, 1987 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: November 24, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-27445 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Permitting Entry of Certain Cotton Textile Products Produced or Manufactured in Thailand, and Establishing New Visa Requirements Within Category 369

November 24, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 24, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated October 14, 1982 (47 FR 46732) established an export visa arrangement for certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported to the United States.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to allow entry of cotton textile products in Category 369, visaed as 369-F, 369-H or 369-L, produced or manufactured in Thailand and exported to the United States during the period October 6, 1987 through November 29, 1987. Goods visaed as 369-F or 369-H after November 29, 1987 shall be denied entry. Merchandise in Category 369 exported from Thailand after November 29, 1987 must be visaed as 369-L, for cotton luggage in TSUSA numbers 706.3210, 706.3650, and 706.4111; and as 369-O, for all other products in Category 369.

A description of the textile categories in terms of TSUSA numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

November 24, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of October 14, 1982 issued to you by the Chairman, Committee for the Implementation of Textile Agreements, concerning an export visa arrangement for cotton, wool and man-made fiber textile products, produced or manufactured in Thailand.

Effective on November 24, 1987, I request that you permit entry into the United States, or withdrawal from warehouse for consumption, of cotton textile products in Category 369, visaed as 369-F,[1] 369-H [2] or 369-L, produced or manufactured in Thailand and exported during the period October 6, 1987 through November 29, 1987.

Merchandise in Category 369, visaed as 369-F or 369-H, which is exported from Thailand after November 29, 1987, will be denied entry. Merchandise in Category 369 exported from Thailand after November 29, 1987 must be visaed as Category 369-L, for cotton luggage in TSUSA numbers 706.3210, 706.3650 and 706.4111, and 369-O for all other products in Category 369.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-27465 Filed 11-27-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Addition and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1987 commodities and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 29, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 5, 1987 and October 2, 1987 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (52 FR 21344, 36996 and 36997) of addition to and deletions

[1] In Category 369-F, only TSUSA numbers 706.3680 and 706.4121.

[2] In Category 369-H, only TSUSA numbers 706.3640 and 706.4106.

form Procurement List 1987, November 3, 1986 (51 FR 39945).

Addition

No comments were received as the result of the **Federal Register** notice; however, the Committee wrote to the current contractor prior to the publication of the notice in order to obtain information on that firm's current sales. The current contractor objected to the addition of this service to the Procurement List on the basis that the addition would impact severely on that firm.

The current contractor is providing this service under the Small Business Administration's Section 8(a) program. The Small Business Administration (SBA) has notified the Committee that the current contractor is being graduated from the SBA Section 8(a) program and that, if this service is not added to the Procurement List, SBA plans to offer it to another small business firm under the SBA Section 8(a) program. Thus, the current contractor would not receive a future contract for this service even if the Committee were not to approve its addition to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1987.

Service

Janitorial/Custodial, Federal Building, 601 East 12th Street, Kansas city, Missouri.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

Commodities

Frame, Picture
7105–00–986–7356
7105–00–149–1277
Brush, Scrub
7920–00–619–9162

C.W. Fletcher,

Executive Director.

[FR Doc. 87–27430 Filed 11–27–87; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1987; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1987 commodities and services produced or provided by workshops for the blind or other severely handicapped..

Comments Must be Received on or Before: December 29, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

For Further Information Contact: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Clamp, Loop
5340–00–375–2091
5340–00–103–2945
5340–01–156–5483

Tool Box, Portable
5140–00–388–3416

Services

Commissary Warehouse Service: Minot Air Force Base, North Dakota Francis E. Warren Air Force Base, Wyoming

Janitorial/Custodial Fort Belvoir Billeting Building #505, Fort Belvoir, Virginia

Janitorial/Custodial, Newark Air Force Station, Newark, Ohio

C. W. Fletcher,

Executive Director.

[FR Doc. 87–27431 Filed 11–27–87; 8:45am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To Prepare a Draft Environmental Impact Statement and Implement the Scoping Process for the Construction of 200 Units of Military Family Housing at Naval Air Engineering Center, Lakehurst, NJ

Pursuant to regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40, Code of Federal Regulations, and the requirements of Executive Order 12382, Intergovernmental Review of Federal Programs and the Department of the Navy policy for intergovernmental coordination of land and facility plans, programs and projects, the Navy announces its intention to prepare a Draft Environmental Impact Statement (DEIS) for the proposed construction of 200 units of military family housing at Naval Air Engineering Center (NAEC) Lakehurst, NJ. Because of excessive rehabilitation costs, the Pinehurst Estates Complex, a Government owned housing area containing 186 units located just outside the NAFC south gate, will be replaced with new construction. There are presently two site alternatives for the proposed housing, both on NAEC property.

Potential impacts on the human environment caused by the proposed action include:

Water resources impacts
Wildlife habitat impacts
School enrollment impacts
Traffic volume and pattern impacts

An unaffiliated consultant firm has been contracted to prepare the DEIS and will commence drafting the document on December 1, 1987. Publication of the completed document for public review is planned for April 1988.

Local and regional concerns over the Navy proposal to construct the 200 units of housing will be carefully considered when preparing the DEIS. Comments and concerns should be forwarded to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn: Code 09X, Building 77L, U.S. Naval Base, Philadelphia, Pennsylvania 19112.

Additionally, to begin the scoping process, the Navy will conduct a public meeting to solicit comments and

concerns to be considered in the DEIS for the proposed housing construction. The meeting is scheduled from 7:00 pm to 9:00 pm Tuesday evening, December 15, 1987 at the Manchester High School Auditorium, 1 Colonial Drive, Lakehurst, NJ (Manchester Township, NJ State Route 37).

The scoping meeting will be conducted by Captain J. MacDonald, the Commanding Officer of NAEC Lakehurst. The meeting will be informal. Individual speakers will be requested to limit their statement to approximately five minutes. Written statements will be accepted at the meeting or they may be mailed to the address noted above. Comments will be received until January 5, 1988.

If further information or assistance is required in regard to this notice of intent, please telephone Mr. Robert Ostermueller at Northern Division, Naval Facilities Engineering Command (215) 897–6262.

Date: November 23, 1987.

Jane M. Virga,

LT, JAGC, USNR, Federal Register Liaision Officer.

[FR Doc. 87–27349 Filed 11–27–87; 8:45 am]

BILLING CODE 3810–AE–M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Training Organization and Management Task Force will meet December 16–17, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting will include an examination of Navy training to assess how best to organize and manage training to accommodate future requirements, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Date: November 23, 1987.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87–27350 Filed 11–27–87; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Amendment of meeting notice.

SUMMARY: This document is intended to notify the general public of an amendment to the Notice of meeting of the Advisory Committee on Student Financial Assistance which was published in the **Federal Register**, Vol. 52, No. 223, pages 44467–8 on November 19, 1987.

The location and proposed agenda items remain the same except that on December 4 a portion of the morning session will be closed to the general public during the necessary period between 9:30 a.m. and 12:00 noon for the sole purpose of holding elections for the Committee Chairman and Vice-Chairman positions.

Dated: November 23, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87–27389 Filed 11–27–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Final Consent Order With Chevron U.S.A., Inc. and Chevron Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final action on proposed consent order.

SUMMARY: The Administrator of the Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Chevron U.S.A., Inc. and Chevron Corporation (collectively, Chevron), as successor to Gulf Oil Corporation (Gulf), shall be made a final order of the DOE as proposed. The Consent Order resolves matters relating to Gulf's compliance with the federal petroleum price and allocation regulations administered and enforced by DOE and its predecessor agencies during the period July 1, 1980 through October 31, 1980. The proposed Consent Order requires Chevron to pay to the DOE the sum of $3,000,000.00 within thirty (30) days following the publication of this Notice. Persons claiming to have been harmed by Gulf's overcharges will be able to present their claims for refunds in an adminstrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Chevron Consent Order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room 3H–017; Mail Code RG–43, Washington, DC 20585, (202) 586–4235.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 6, 1987, ERA issued a Notice announcing a proposed Consent Order between DOE and Chevron which would resolve matters relating to Gulf's compliance with federal petroleum price and allocation regulations during the audit period July 1, 1980 through October 31, 1980. The proposed Consent Order, which requires Chevron to pay $3,000,000.00, settles Gulf's potential total liability, including interest, of approximately $5,000,000.00 arising from alleged violations during the audit period. The July 6 notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The Notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final.

II. Comments Received

ERA received written comments submitted on behalf of the Controller of the State of California. These comments were considered in making the decision as to whether or not the proposed Consent Order should be made final.

The comments submitted by the State of California did not question the basis of the settlement or the adequacy of the settlement amount, but only offered suggestions on the procedure to be used in the distribution of the settlement fund.

III. Analysis of Comments

The July 5 Notice solicited written comments in order to enable the ERA to receive information from the public relevant to the decision whether the

proposed Consent Order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the July 6 notice provided information regarding Chevron's overcharge liability and the considerations that entered into the government's preliminary agreement with the proposed terms.

The comments received from the Comptroller of the State of California, relating to OHA's ultimate distribution of the funds if the Consent Order is finalized, were not germane to the basis or adequacy of the settlement.

The comments urged the ERA to "commit the agency" to "promptly take all steps available to implement * * * the procedures and policies set forth" in the Settlement Agreement in the *Stripper Well Exemption Litigation*, M.D.L. No. 378 (D.Kan.). The Consent Order requires that ERA petition the OHA to implement a proceeding under 10 CFR Part 205, Subpart V, with regard to all the funds received from Chevron pursuant to the settlement. That disposition is consistent with the Settlement Agreement, under which DOE has issued Modified Restitutionary Policy Statement 51 FR 27899 (August 4, 1986). That policy statement is contemplated by this settlement in that the Consent Order calls for a Subpart V proceeding for the disposition of the crude oil funds. Accordingly, it appears that the concerns of the Controller of the State of California are effectively addressed by the Consent Order.

The review and analysis of the written comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Chevron.

Accordingly, ERA concludes that the Consent Order is in the public interest and should be made final.

IV. Decision

By this Notice, and pursuant to 10 CFR 205.199J, the proposed Consent Order between Chevron and DOE, executed on June 11, 1987, is made a final order of the Department of Energy, effective the date of publication of this notice in the **Federal Register**.

Issued in Washington, DC, on the 20th day of November, 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-27387 Filed 11-27-87; 8:45 am]

BILLING CODE 6450-01-M

Final Consent Order With Carlson Companies, Inc. and Ferrell Companies, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final action on proposed consent order.

SUMMARY: The Administrator of the Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Carlson Companies, Inc. and Ferrell Companies, Inc. (collectively, Carlson), as successors to Indian Wells Oil Company (Indian Wells), shall be made final as proposed. This Consent Order resolves matters relating to Indian Wells' compliance with the Federal petroleum price and allocation regulations administered and enforced by DOE and its predecessor agencies during the period August 1, 1973 through January 27, 1981.

The proposed Consent Order requires Carlson to pay $1,500,000.00 within thirty (30) days following the publication of this Notice. DOE will petition the Office of Hearings and Appeals (OHA) for distribution of the settlement amount pursuant to the special refund procedures of 10 CFR Part 205, Subpart V. Persons claiming to have been harmed by Carlson's overcharges will be able to present any claims for refunds to the OHA.

The decision to make the Carlson Consent Order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room 3H-017; Mail Code RG-43, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 23, 1987, ERA issued a Notice announcing a proposed Consent Order between DOE and Carlson which would resolve matters relating to Indian Wells' compliance with federal petroleum price and allocation regulations during the period August 1, 1973 through January 27, 1981.

The proposed Consent Order calls for Carlson to make a payment of $1,500,000.00 to discharge in full all of Indian Wells' obligations under the price and allocation regulations for the period August 1, 1973 through January 27, 1981. The settlement includes the violations addressed in a Remedial Order issued by DOE on December 3, 1986, which found that Indian Wells had exceeded its maximum allowable prices in its sales of natural gas liquids and natural gas liquid products during the period September 1, 1973 through January 31, 1976, in the amount of $1,300,471.47, plus interest of $2,575,392.92 through December 3, 1986. The September 23 Notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The Notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final.

II. Comments Received

ERA received written comments submitted on behalf of the State of California. These comments were considered in making the decision as to whether or not the proposed Consent Order should be made final.

The comments submitted by the State of California did not question the basis of the settlement or the adequacy of the settlement amount, but only expressed the desire for more specific information in future cases as to the justification for the settlement amount.

III. Analysis of Comments

The September 23 Notice solicited written comments in order to enable the ERA to receive information from the public relevant to whether the proposed Consent Order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the September 23 Notice provided information regarding Carlson's overcharge liability and the considerations that entered into the government's preliminary agreement with the porposed terms.

The comments received from the Controller of the State of California did not express opposition to the finalization of the proposed Consent Order, but indicated a desire for more information in future cases.

The review and analysis of the written comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Carlson.

Accordingly, ERA concludes that the Consent Order is in the public interest and should be made final without modification.

IV. Decision

By this Notice and pursuant to 10 CFR 205.199J the proposed Consent Order between Carlson and DOE, executed on

August 14, 1987, is made a final order of the Depatment of Energy, effective the date of publication of this Notice in the Federal Register.

Issued in Washington, DC, on the 23rd day of November, 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-27425 Filed 11-27-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-56-NG]

Application to Import Natural Gas From Canada; Unicorp Energy, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 8, 1987, of an application filed by Unicorp Energy, Inc. (Unicorp), for blanket authorization to import up to 400 MMcf per day but not to exceed 145 Bcf annually of natural gas, for a two-year period beginning on the date of first delivery. Unicorp would be acting as a marketer of natural gas for its own account as well as on behalf of U.S. purchasers and Canadian suppliers. Unicorp intends to purchase and natural gas from Mark Resources, a partially-owned subsidiary of Unicorp Canada Corporation, and from B.P. Canada as well as a varitey of other reliable Canadian suppliers. The gas would be sold on a short-term or spot market basis to a wide range of purchasers in the U.S. including but not limited to pipelines, local distribution companies, commercial and industrial end-users. Unicorp intends to utilize existing pipeline facilities. Unicorp also proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than December 30, 1987.

FOR FURTHER INFORMATION:

Allyson C. Reilly, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9394.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., (202) 586-6667.

SUPPLEMENTARY INFORMATION: Unicorp requests that its authorization be granted on an expedited basis. Section 590.205 (a) of ERA administrative procedures generally requires a notice to extend a 30-day comment period except in emergency circumstances. Unicorp has failed to identify any emergency circumstance that would justify expedited consideration. Therefore, a decision on application will not be made until all responses to this notice have been received and evaluated.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

In the event the ERA approves this request, it may, in order to maintain consistency with similar blanket import authorizations, designate only a total volume of natural gas to be imported during the authorized term rather than impose daily or annual limits.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requrements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., December 30, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Unicorp's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 18, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-27388 Filed 11-27-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-106-000, et al.]

Commonwealth Edison Co., et al., Electric Rate and Corporate Regulation Filings

November 23, 1987.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company

[Docket No. ER88-106-000]

Take notice that on November 17,1987, Commonwealth Electric Company (Commonwealth) tendered for filing, pursuant to section 205 of the Federal Power Act and the implementing provisions of § 35.13 of the Commission's Regulations, a proposed change in rate under its currently effective Rate Schedule FERC No. 6.

Said change in rate under Commonwealth's Rate Schedule FERC No. 6 has been computed according to the provisions of section 6(b) of its Rate Schedule FERC No. 6. Such change is proposed to become effective January 1, 1987, thereby superseding the 23 KV Wheeling Rate in effect during calendar 1986. Commonwealth has requested that the Commission's notice requirements be waived pursuant to § 35.11 of the Commission's Regulations in order to allow the tendered rate change to become effective as of January 1, 1987.

Copies of this filing have been served upon Boston Edison Company and the Massachusetts Department of Public Utilities.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER88-107-000]

Take notice that on November 18, 1987, Arizona Public Service Company (APS) tendered for filing a Wholesale Power Agreement and a Wheeling and Administrative Service Agreement between APS and Roosevelt Irrigation District (RID).

It is intended that these new Agreements supersede the terms and conditions for service presently being rendered under FERC Rate Schedule No. 15 and FERC Rate Schedule No.108. APS FERC Rate Schedule Nos. 15 and 108 will terminate on December 31, 1987. The service provided under Rate Schedule No. 108 has identically been incorporated in the tendered Wholesale Power Agreement. The rates for Wholesale Power Services to be rendered remain unchanged from those presently in effect. The rates for Wheeling and Administrative Services represent an increase from rates presently in effect to a rate level already accepted by the Commission for similar services.

APS, with RID's concurrence, requests an effective date of January 1, 1988.

Copies of this filing have been served upon RID and the Arizona Corporation Commission.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Superior Water, Light and Power Company

[Docket No. ER88-105-000]

Take notice that on November 16, 1987, Superior Water, Light and Power Company (SWL&P) tendered for filing a rate reduction relating to federal corporate income tax rate changes. SWL&P's rate reduction is made in accordance with the formula under the Federal Energy Regulatory Commission's Order No. 475 in Docket No. RM87-4-000 and will be effective retroactively as of July 1, 1987.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27382 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-75-000, et al.]

Transcontinental Gas Pipe Line Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-75-000]

November 20, 1987.

Take notice that on November 12, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-75-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of certain facilities, all as more fully described in the application on file with the Commission, which is open for public inspection.

Specifically, Transco proposes to abandon by removal its Piedmont-Landrum City Gate Meter and Regulator Station and appurtenant facilities located on Transco's Tryon Lateral near Landrum, Spartanburg County, South Carolina.

It is stated that this station was constructed in 1967 as an additional point of delivery to its customer, Piedmont Natural Gas Company (Piedmont), which proposed to supply natural gas to the town of Landrum, including an industrial plant located there. It is further stated, however, that Piedmont's supply contract with the plant was never consummated, and Piedmont advises that projections of customer growth in the area do not indicate that the station will be needed in the foreseeable future. Accordingly, Transco states, Piedmont has no objection to the abandonment and removal of the station.

Comment date: December 11, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. Consolidated Gas Transmission Corporation

[Docket No. CP88-69-000]

November 20, 1987.

Take notice that on November 9, 1987, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP88-69-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add four new delivery points to The East Ohio Gas Company (East Ohio), its existing jurisdictional customer under the authorization issued to Consolidated in Docket No. CP82-537-000 pursuant to section 7 of the Natuaral Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

By this request Consolidated seeks authorization to add four new delivery

points to East Ohio. Consolidated states that two of the new delivery points are two existing Consolidated delivery points to The River Gas Company (River Gas) at Fifth Street in Marietta, Washington County, Ohio and at Warren Township (Gravel Bank), Washington County, Ohio. It is stated that the other two delivery points are at the existing interconnection of Texas Eastern Transmission Corporation and River Gas where gas is delivered by Texas Eastern for the account of Consolidated in Monroe County, Ohio, designated by Texas Eastern as measuring station 983 (Powhattan Point). Consolidated states that it will deliver volumes under applicable service agreements to East Ohio at these delivery points. Consolidated further states that no new facilities will be constructed.

It is stated that East Ohio seeks the four delivery points, which are currently points of delivery by Consolidated to River Gas, in order to allow River Gas flexibility in managing its gas supplies. Consolidated states that deliveries by Consolidated for both East Ohio and River Gas will not exceed currently authorized levels. Further, it is stated that the addition of these delivery points is not prohibited by Consolidated's tariff. It is stated that East Ohio has advised Consolidated that the volumes it will purchase at these new delivery points are for its system supply.

Comment date: January 4, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-74-000]

November 23,1987.

Take notice that on November 12, 1987, Transcontinental Gas Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-74-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to transport up to 35,000 Mcf of natural gas per day on an interruptible basis on behalf of Trunkline Gas Company (Trunkline). Transco states that it would receive natural gas from Trunkline at an existing interconnection between Transco and Trunkline in South Pelto Area, Block 13, Offshore Louisiana. Transco explains that it would transport and redeliver equivalent quantities at existing interconnections between Transco and Trunkline near Katy, Waller County, Texas and Ragley, Beauregard Parish, Louisiana.

Transco states that the transportation agreement provides for a primary term of five years from the date of initial deliveries and from year to year thereafter.

Transco proposes to initially charge Trunkline 15.6 cents per Mcf delivered. Transco explains that it would retain 1.2 percent of the quantities received to compensate for compressor fuel and line loss mark-up.

Comment date: December 14, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-53-000]

November 23, 1987.

Take notice that on October 30, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P. O. Box 1396, Houston, Texas, 77251, filed in Docket No. CP88-53-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to transport up to 5,000 Mcf of natural gas per day on an interruptible basis for Panhandle Eastern Pipe Line Company (Panhandle). Transco states that it would receive natural gas for Panhandle's account at an existing interconnection between Transco and Trunkline Gas Company (Trunkline) in Brazos Block A-47, Offshore Texas. Transco explains that it would transport and redeliver natural gas for Panhandle's account at an existing interconnection between Transco and Trunkline near Katy, Waller County, Texas, and/or to Natural Gas Pipeline Company of America (Natural) at the terminus of the U-T Offshore System near Johnsons Bayou, Louisiana.

Transco states that the transportation agreement provides for a primary term of five years from the date of initial deliveries and from year to year thereafter.

Transco proposes to charge Panhandle a transportation rate based on Sheet No. 19 of Transco's FERC Gas Tariff, Second Revised Volume No. 1. Transco explains that the currently effective maximum rate would be 13.4¢ per Mcf for deliveries to Trunkline and 26.6¢ per Mcf for deliveries to Natural.

Comment date: December 14, 1987, in accordance with Standard Paragraph F at the end of this notice.

Southwest Gas Corporation

[Docket No. CP88-68-000]

November 23, 1987.

Take notice that on November 9, 1987, Southwest Gas Corporation (Southwest), P. O. Box 98510, Las Vegas Nevada 89193-8510, filed in Docket No. CP88-68-000 a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new sales delivery point and appurtenant facilities, and to modify an existing sales delivery point, so as to enable the sale for resale and delivery of additional quantities of natural gas to Sierra Pacific Power Company (Sierra Pacific), an existing local distribution company customer of Southwest, under the authorization issued in Docket No. CP84-739-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Pursuant to its blanket certificate authorization issued in Docket No. CP84-739-000, Southwest proposes to establish the measurement and regulating station assembly and appurtenant facilities at a point on its northern Nevada system facilities located in Section 28, Township 20 North, Range 20 East, MDB&M, Washoe County, Nevada. Southwest states that the delivery point would be used to provide approximately 5,433 Mcf of gas on a peak day, during the fifth year of service, to Sierra Pacific for resale to new residential consumers situated in the Spanish Springs Valley area near Sparks, Nevada, and to consumers situated in Sierra Pacific's presently certificated service area consisting of the cities of Reno and Sparks, Nevada, and environs. It is estimated that the cost of the proposed facilities would be approximately $46,500, which cost would be reimbursed to Southwest by Sierra Pacific.

Southwest also proposes to modify its existing Sierra Pacific City Gas No. 2 delivery point, which is located at a point on its northern Nevada system facilities in Section 27, Township 20 North, Range 20 East, MDB&M, Washoe County, Nevada, by replacing the existing measurement and regulating station assembly and appurtenant facilities. Southwest states that Sierra Pacific has requested that Southwest provide additional delivery capacity at both the proposed new delivery point

and at the Sierra Pacific City Gate No. 2 in order to meet Sierra Pacific's existing and projected future requirements within its presently certificated service area. Southwest further states that the modification of the Sierra Pacific City Gas No. 2 facilities will result in increasing the peak day requirements at the delivery point from the present level of 20,833 Mcf to 39,250 Mcf during the fifth year of service. Southwest estimates that the cost of modifying the Sierra Pacific City Gate No. 2 facilities would be approximately $75,000, which cost would be reimbursed by Sierra Pacific.

Southwest further states that the sales to Sierra Pacific at the two delivery points would be made in accordance with Southwest's Rate Schedule G–1 contained in its FERC Gas Tariff, Original Volume No. 1. Southwest asserts that it has sufficient capacity available to provide for the proposed deliveries without any detriment or disadvantage to any of its existing customers, and that the volumes anticipated to be delivered to Sierra Pacific as a result of this proposal would not affect Southwest's ability to serve its existing customers. Southwest also indicates that Sierra Pacific is a full requirements customer of Southwest. Therefore, the volumes to be delivered through the two delivery points as a result of this proposal would not result in an increase in the total volumes of gas that Southwest is presently authorized to sell to Sierra Pacific, it is stated.

Comment date: January 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. El Paso Natural Gas Company

[Docket No. CP88–72–000]

November 23, 1987.

Take notice that on November 12, 1987, El Paso Natural Gas Company (El Paso), a Delaware Corporation, whose mailing address is Post Office Box 1492, El Paso, Texas, 79978, filed an application at Docket No. CP88–72–000, under section 7(b) of the Natural Gas Act, for permission and approval to abandon certain sales for resale to Northwest Pipeline Corporation (Northwest) and the specific properties related thereto to El Paso Production Company (El Paso Production) effective July 1, 1986, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that on February 6, 1987, El Paso and El Paso Production filed with the Commission a joint application at Docket No. CI87–289–000 as successors-in-interest authorizing the continued sale and delivery of natural gas to Northwest.[1] It is stated the instant application is a companion to El Paso's and El Paso Production's joint application at Docket No. CI87–289–000, the provisions of which are hereby incorporated by reference. Specifically, it is stated that El Paso acquired from Beta Development Company (Beta) effective August 19, 1983, one-half (½) of its leasehold interest in certain wells located in San Juan County, New Mexico, by Assignment of Oil and Gas Leases dated September 11, 1983. It is further stated that Beta has been making sales in interstate commerce of natural gas for resale at these wellheads to Northwest pursuant to the small producer exemption certificate issued at Docket No. CS76–612. Due to El Paso's leasehold acquisition, it is indicated that El Paso sought requisite authorization at Docket No. CI87–289–000, effective August 19, 1983, and continuing through June 30, 1986, for the continuation of the instant sale to Northwest of natural gas produced from the one-half (½) leasehold interest acquired by El Paso. It is further stated that the Natural gas produced from those leasehold interests continues to be sold under the same terms and conditions as applied when Beta held the full interest.

The application states further that effective July 1, 1986, El Paso transferred its interest in the Beta Properties to El Paso Production by conveyance dated July 16, 1986. Accordingly, it is stated that El Paso Production requested at Docket No. CI87–289–000 the issuance of a certificate of public convenience and necessity, to be effective July 1, 1986, authorizing the continued sale of gas from those properties to Northwest as successor-in-interest to El Paso. It is stated that said sales will continue to be made at the same prices and under the same terms as applied when Beta and, subsequently, El Paso were making the sales, subject to the present and future orders, rules and regulations of the Commission.

With respect to requisite authorizations sought by El Paso and El Paso Production at Docket No. CI87–289–000, El Paso proposes to abandon the interim sale to Northwest, effective June 30, 1986. Also as of that date, El Paso proposes to abandon the related properties to El Paso Production. It is stated that the transfer of the properties described at Docket No. CI87–289–000 from El Paso to El Paso Production will not result in any change in the service previously provided by El Paso to Northwest.

Comment date: December 14, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. National Fuel Gas Supply Corporation

[Docket No. CP88–71–000]

November 23, 1987.

Take notice that on November 10, 1987, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP88–71–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the interruptible transportation of up to 37,787 Mcf of natural gas per day on behalf of National Fuel Gas Distribution Corporation (Distribution) for the account of 61 end-user customers for a term of one year. In addition, National Fuel requests authorization to transport additional volumes on behalf of Distribution and/or modify receipt points with respect to certain end-users presently covered by National Fuel's certificate in Docket No. CP87–144–000, all as more fully set forth in the appendices hereto and in the application which is on file with the Commission and open to public inspection.

Appendix A, attached hereto, indicates the maximum daily volume for each of the 61 end-users of Distribution proposed to be served herein, and Appendix B indicates the modifications in service to those end-users presently receiving transportation under authorization granted in Docket No. CP87–144–000. Details such as receipt points and sellers are available in National Fuel's application.

National Fuel states that it would receive the subject transportation volumes at existing receipt points on its system and would deliver the volumes to Distribution at existing points of delivery. National Fuel adds that the proposed transportation service would aid industries in western New York and western Pennsylvania in reducing energy costs and maintaining employment levels and aid Distribution in retaining its industrial market.

National Fuel states that it would charge Distribution pursuant to its T–1 Rate Schedule which currently provides

[1] El Paso Production also filed on February 6, 1987, an application at Docket No. CI87–290–000 which pertains to the successor-in-interest of like properties *not* involving the sale of gas to Northwest. El Paso has on file with the Commission, at Docket No. CP87–553–000, an application for permission and approval to abandon the service and properties the subject of the successor-in-interest filing at Docket No. CI87–290–000 to El Paso Production.

for a rate of 31.29 cents per Mcf and 2 percent shrinkage.

Comment date: December 14, 1987, in accordance with Standard Paragraph F at the end of this notice.

Appendix A—Docket No. CP88-71-000

End user	Maximum daily volume Mcf
1. American Linen Supply, Buffalo, NY	100
2. Amherst Sewage Treatment Plant, Amherst, NY	200
3. Asphalt & Paving, Franklin, PA	300
4. Associated Springs, Barnes Group Inc., Corry, PA	500
5. Associated Textile Rental Services, Inc., Niagara Falls, NY	150
6. Autumn View Manor, Hamburg, NY	60
7. Batavia Industrial Center, Batavia, NY	2,500
8. Bertrand Chaffee Hospital, Springville, NY	80
9. Bry-Lyn Hosp., Inc., Buffalo, NY	60
10. Buffalo Batt & Felt Corp., Buffalo, NY	100
11. Buffalo Color Corp.:	
Buffalo, NY	2,200
Boiler Plant	2,500
Indigo Plant	200
12. Buffalo Crushed Stone, Buffalo, NY:	
Wehrle Dr. Plant	500
Woodlawn Plant	1,000
Como Park Plant	1,000
13. Buffalo General Hospital, Buffalo, NY	1,525
(a) Buffalo General Hospital, Buffalo, NY	62
(b) Buffalo General Hospital, Buffalo, NY	50
14. Buffalo Weaving & Belting, Buffalo, NY	300
15. Cadet Cleaners, Buffalo, NY	100
16. Cascades Niagara, Niagara Falls, NY	1,200
17. Children's Hospital, Buffalo, NY	1,328
18. Coca Cola Bottling, Tonawanda, NY	40
19. Columbus McKinnon Corp., Tonawanda, NY	200
20. Comstock Food, Oakfield, NY	412
21. Crowley Foods, Arkport, NY	500
22. Deaconess Hospital, Buffalo, NY	278
23. Dunlop Tire Corp., Tonawanda, NY	3,000
24. EMI Co., Erie, PA	400
25. Fisher Price Toys, East Aurora, NY	200
26. Ford Corp., Buffalo, NY:	
Stamping Plant	1,000
Power Plant	1,000
27. Freezer Queen Foods, Inc., Buffalo, NY	250
28. Friendship Dairies Inc., Friendship, NY	750
29. Garden Gate Manor, Cheetowaga, NY	63
30. Genesee County Nursing, Batavia, NY	96
31. Genesee Memorial Hospital, Batavia, NY	190
32. Goldome FSB, Buffalo, NY:	
Goldome CTR	175
Western Bldg	100
33. Jefferson Smurfit Corp., Lancaster, NY	130
34. Jos. Malecki Corporation, Buffalo, NY	50
35. Kaiser Aluminum & Chemical Corp., Erie, PA	980
36. Kenmore Development, Buffalo, NY:	
Sanders Road	75
Hinds St	85
Delaware Avenue	150
37. Lawless Container Corp., North Tonawanda, NY	800
38. Marine Drive Apartments, Buffalo, NY	250
39. Mary Agnes Manor, Buffalo, NY	74
40. Median Power Corp., Arcade, NY	2,000
41. Metal Cladding Inc. N., Tonawanda, NY:	
Plant 1	75
Plant 2	20
42. Millard Fillmore Hospitals, Buffalo, NY	100
43. Millcreek Township, School District, Erie, PA	245
44. Miller Greenhouses, Eden, NY	211
45. Modern Industries, Inc., Erie, PA	140
46. Morrison—Knudsen Co., Inc., Hornell, NY	250
47. Niacet Corp., Niagara Falls, NY	2,000
48. Niagara Falls Memorial Med. Cntr., Niagara Falls, NY	540
49. Niagara Frontier Methodist Home, Inc.:	
(a) Beechwood Methodist Home, Getzville, NY	93
(b) Blocher Homes, Williamsville, NY	54
50. North Gate Manor, N. Tonawanda, NY	50
51. Pillsbury Co., Buffalo, NY	230
52. Presbyterian Homes, W.N.Y. Inc., Williamsville, NY:	
(a) Amherst Presbyterian Home	74
(b) St. Lukes Presbyterian Home	47
53. Pure Carbon Co., St. Marys, PA	166
54. Roswell Park Memorial Institute, Buffalo, NY	3,500
55. Royal Bedding Co., Buffalo, NY	85
56. Seneca Manor, W. Seneca, NY	58
57. Smith Metal Arts/McDonald Prod., Walden Ave., Buffalo, NY	100
58. Speedway Conveyors, Inc., Buffalo, NY	85
59. St. Francis Hospital of Buffalo, Buffalo, NY:	
Location (1)	68
Location (2)	48
60. Strippit Houdaille, Akron, NY	75
61. Talon Inc., Meadville, PA	210
Total	37,787

1. End-Users for which National Fuel seeks to Increase Transportation Service

SCHEDULE OF END-USERS SEEKING MODIFICATION TO AUTHORIZATION GRANTED IN DOCKET NO. CP87-144-000

End-user	Currently authorized transp. vol. (Mcf/day	Proposed maximum daily transp. vol. (Mcf/day
Channellock, Inc., Meadville, PA	200	300
Children's Hospital, Buffalo, NY	515	1,328
Degraff Memorial Hospital, N. Tonawanda, NY	340	490
Exotic Metals, Ridgway, PA	112	250
Keystone Carbon Co., St. Marys, PA	400	440
Olean General Hospital	111	141
Shenango, Inc., Sharpsville, PA	500	700
St. Jerome Hospital, Batavia, NY	165	535

2. End-Users for which National Fuel Seeks New Receipt Point or Modification Other Than A Change in Volume

ABC Rail Corp. (Formerly Abex Corp), Meadville, PA
Blackstone Corp., Jamestown, NY
Buffalo Airport Ctr., Cheektowaga, NY
Buffalo News, Buffalo, NY
Channellock, Inc., Meadville, PA
Children's Hospital, Buffalo, NY
Degraff Memorial Hospital, N Tonawanda, NY
Electralloy Corp., Oil City, PA
Exotic Metals, Ridgway, PA
Franklin Steel Co., Franklin, PA
General Mills, O-CEL-LO Division, Tonawanda, NY
Joy Manufacturing Co., Franklin, PA
Keystone Carbon Co., St. Marys, PA
MRC Bearings/SKF Aerospace, Jamestown, NY, Falconer, NY
Clean General Hospital, Olean, NY
Pennsylvania Pressed Metals, Inc. Emporium, PA
Ridgway Color Co., Ridgway, PA
Sharon Tube Co., Sharon, PA
Shenango, Inc., Sharpsville, PA
St. Jerome Hospital, Batavia, NY
Zurn Industries, General Air Division, Erie, PA

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to

be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27381 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-7-001]

K N Energy, Inc.; Compliance Filing

[Docket No. RP88-7-001]

November 20, 1987.

Take notice that on November 16, 1987, K N Energy, Inc. (K N) tendered for filing Substitute Fifth Revised Sheet No. 27C in its Third Revised Volume No. 1 of its FERC Gas Tariff.

K N states that the purpose of this substitute tariff sheet is to comply with the Commission's October 29, 1987 order in Docket No. RP88-7-000, which directed K N to state that it would not recover any annual charges recorded in FERC Account No. 928 in a NGA Section 4 rate case.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27383 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-209-008]

United Gas Pipe Line Co.; Compliance Filing

November 20, 1987.

Take notice that on November 17, 1987, United Gas Pipe Line Company (United) tendered for filing *Pro Forma* Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume 1 in order to comply with the Commission's October 29, 1987 order in the referenced docket.

United states that the Commission's October 29, 1987 order found that the methodology for the treatment of take-or-pay costs as proposed in the Further Stipulation and Agreement filed on November 5, 1986 in this proceeding was unjust, unreasonable, and inconsistent with Commission policy and ordered United to refile tariff sheets to change this methodology to reflect the recovery of take-or-pay costs in the commodity component of its rates. The treatment by United of take-or-pay costs as provided in this docket involved the inclusion of take-or-pay costs in the demand component accommodated by a corresponding reduction in depreciation allowance below United's last approved depreciation rate levels. United's filing therefore, in compliance with the October 29, 1987, order, reflects the allocation of take-or-pay costs to the commodity rate and reflects the demand portion of the last approved depreciation allowance.

United requests that the Commission hold in abeyance the effectiveness of the proposed *pro forma* tariff sheet until it acts on United's contemporaneous filing of additional tariff sheets proposing to recover take-or-pay buy-out and buy-down costs consistent with the mechanism prescribed under the policy statement promulgated by the Commission in Order No. 500.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 27, 1987. Protests will be considered by the Commission in determining the appppropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27384 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-92-000, et al.]

Dalton H. Cobb, et al.; Applications for Certificates Abandonments of Service and Petitions to Amend Certificates [1]

November 24, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 9, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure Base
C188-92-000, B, Nov. 3, 1987.	Dalton H. Cobb, P.O. Box 50670, Midland, Texas 79710.	El Paso Natural Gas Company, Superior Federal No. 3 Well, Sec. 4-T20S-R29E, Eddy County, New Mexico.	(1)	
C188-107-000, B, Nov. 9, 1987.	J.C. Williamson, One First City Center—Suite 890, Midland, Texas 79701.	.....do.....	(1)	
G-9724-001, C172-239-001, Nov. 16, 1987.	Phillips 66 Natural Gas Company, 990-G Plaza Office Bldg., Bartlesville, Okla. 74004.	Northern Natural Gas Company, Division of Enron Corp., Andrews Gasoline Plant located in Andrews County, Texas.	(2)	
C188-120-000, (C162-742), B, Nov. 16, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Perryton Field, Ochiltree County, Texas.	(3)	
G-18303-004, D, Nov. 16, 1987.	.....do.....	El Paso Natural Gas Company, Rhodes Field, Lea County, New Mexico.	(4)	
C161-1429-010, D, Nov. 16, 1987.	.....do.....	Jalmat Field, Lea County, New Mexico..	(5)	
C161-1582-001, D, Nov. 16, 1987.	.....do.....	Langlie Mattix Field, Lea County, New Mexico.	(6)	
C188-113-000, B, Nov. 12, 1987.	Pauley Petroleum, Inc., 822 Building of the Southwest, Midland, Texas 79701.	Sec. 12-T25S-R31E, Eddy County, New Mexico.	(7)	
C188-114-000, B, Nov. 12, 1987.	.....do.....	Sec. 35-T24S-R31E, Eddy County, New Mexico.	(8)	
C188-115-000, B, Nov. 12, 1987.	.....do.....	Sec. 18-T25S-R32E, Lea County, New Mexico.	(9)	
C188-125-000, B, Nov. 12, 1987.	Frank W. Cass, 2727 Routh, Dallas, Texas 75201.	Spraberry Trend Area, Calvin Dean Field, Midland, Upton, Glasscock and Reagan Counties, Texas.	(10)	
G-6591-003, D, Nov. 12, 1987.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Rincon Field, Starr County, Texas.	(11)	
G-11024-002, D, Nov. 12, 1987.	.....do.....	East Cameron and West Cameron Areas, Offshore Louisiana.	(12)	
C188-116-000 (C176-629), B, Nov. 13, 1987.	.....do.....	West Cameron Area, Offshore Louisiana.	(13)	
C188-111-000 (C173-328), B, Nov. 12, 1987.	Odeco Oil & Gas Company, P.O. Box 61780, New Orleans, La. 70161.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Ship Shoal Block 94, Offshore Louisiana.	(14)	
C188-106-000 (C179-262), B, Nov. 10, 1987.	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Texas 77001.	Eugene Island Block 348, Offshore Louisiana.	(15)	
C188-105-000 (C177-69), B, Nov. 10, 1987.	.....do.....	ANR Pipeline Company, Eugene Island Block 208, Offshore Louisiana.	(15)	
C178-139-001, D, Nov. 12, 1987.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Putnam Field, Dewey County, Oklahoma.	(16)	
C188-110-000 (C164-991), B, Nov. 12, 1987.	.....do.....	Williams Natural Gas Company, Sharon N.W. Field, Barber County, Kansas.	(17)	
C165-828-000, D, Nov. 10, 1987.	.....do.....	Panhandle Eastern Pipe Line Company, Oakdale Field, Woods County, Oklahoma.	(18)	
C188-121-000 (G-11230), B, Nov. 16, 1987.	BHP Petroleum Company Inc., 5847 San Felipe—Suite 3600, Houston, Texas 77057.	United Gas Pipe Line Company, E. McFaddin Field, Victoria County, Texas.	(19)	
C188-112-000 (G-3894), B, Nov. 12, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Triple "A" Field, San Patricio County, Texas.	(20)	
C163-819-002, D, Nov. 16, 1987.	.....do.....	Williams Natural Gas Company, Northwest Lovedale Field, Harper County, Oklahoma.	(21)	
G-13299-006, D, Nov. 16, 1987.	.....do.....	ANR Pipeline Company, Laverne Field, Beaver and Harper Counties, Oklahoma.	(22)	
C188-118-000 (C168-951-001), B, Nov. 13, 1987.	Petro-Lewis Corporation (Operator), P.O. Box 60004, New Orleans, La. 70160.	Pacific Lighting Service & Supply Company, Carpenteria Blocks 51 and 52 Fields, Offshore California.	(23)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure Base
C188-122-000 (C160-22), B, Nov. 16, 1987.	Union Oil Company of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Colorado Interstate Gas Company, Laverne Field, Harper County, Oklahoma.	([24])	
C188-123-000, B, Nov. 16, 1987.	Black Gold Production Co., Rt. 1, Box 96-C, Tickfaw, La. 70466.	Southern Natural Gas Company, Manilla Village Field, Jefferson Parish, Louisiana.	([25])	

FOOTNOTES

[1] Applicant requests one-year limited-term abandonment with pregranted abandonment. On or before January 1, 1986 and continuing to the present time, El Paso has curtailed production from the affected wells. The subject gas contract's primary term expired on January 1, 1985. Estimated deliverability is 400 Mcf/d. The gas is NGPA section 104 1973-1974 biennium gas.

[2] Add alternate delivery points located at Phillips Benedum Plant in Upton County, Texas and Spraberry Plant in Midland County, Texas.

[3] Property sold 1-2-86, to Doyle Hartman, *et al.*

[4] Sun assigned its interest effective 1-1-84, in Property No. 527309, Langlie "B" to Summit Energy, Inc.

[5] Sun assigned its interest effective 1-2-86, in Property No. 527253, D. King, to Doyle Hartman, James A. Davidson, Michael L. Klein and John H. Hendrix Corporation.

[6] Sun assigned its interest effective 1-2-86, in Property No. 749363, Wells 12 & 13, to Doyle Hartman, James A. Davidson, Michael L. Klein and John H. Hendrix Corporation.

[7] The Cotton Draw #68 Well is unable to produce gas into El Paso's line at the existing pressure. Neither Pauley or El Paso wish to install compression facilities. Gas may still be producable, but at this time and for the past several years, Pauley has sold no gas to El Paso. The remaining life of the well is questionable due to production and pressure problems.

[8] The Cotton Draw Unit No. 67 was temporarily abandoned February 1976. El Paso has removed its measurement facilities and disconnected its facilities from this well.

[9] The Cotton Draw Unit No. 64 was plugged and temporarily abandoned July 1973. El Paso has removed its measurement facilities and disconnected its facilities from this well.

[10] The available supply of natural gas has been depleted to levels no longer warranting continued service.

[11] Conoco Land Lease No. 24679 expired 10-24-87.

[12] Conoco Inc. conveyed unto Koch Exploration Company, effective 6-1-87, operating rights in and to the N/2 of East Cameron Block 49 from the surface down to a depth of -7922 feet subsea, such depth representing the stratigraphic equivalent of 100 feet below the base of the "KJ" Sand.

[13] The Oil and Gas Lease covering West Cameron Block 36 terminated 6-27-85. Conoco has no remaining acreage subject to Rate Schedule No. 430.

[14] Production ceased on 4-7-86, and the lease expired under its own terms and reverted to the Minerals Management Service on 7-7-86.

[15] By Assignment dated 11-10-86, to be effective 10-31-86, Tenneco Exploration, Ltd. assigned all rights, title and interest to Tenneco Oil Company.

[16] Tenneco Oil Company assigned certain acreage to Unit Corporation, effective 1-1-87.

[17] Tenneco Oil Company assigned acreage to Citation Investment Limited Partnership 10-22-87, to be effective 8-1-87.

[18] Tenneco Oil Company, assigned certain acreage to Redgate Petroleum, Inc., Donald C. Slawson and Star Production, Inc., 11-14-85, to be effective 12-1-85, 8-1-85, and 12-1-86, respectively.

[19] BHP Petroleum Company Inc. has assigned all of its right, title and interest in all acreage covered under Rate Schedule No. 16, effective 6-1-87, to Pennzoil Company.

[20] By Assignment effective 4-1-87, ARCO assigned all its interest in all acreage under contract dated 9-21-50, and Rate Schedule No. 48 to Timothy F. McCloskey.

[21] By Assignment effective 1-1-87, ARCO assigned certain properties to Hondo Oil and Gas Company.

[22] By Amendment dated 8-20-87, ANR Pipeline Company released 6 non-connected wells from contract dedication.

[23] 100% working interest sold to Santa Fe Energy Company, effective 3-1-87.

[24] Union Oil Company of California assigned effective 9-1-87, a certain lease under Docket No. CI60-22 to Vance Production Company.

[25] The contract expired 7-7-83.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-27459 Filed 11-27-87; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 9056-002, et al.]

Cogeneration and Electric, Inc., et al; Surrender of Preliminary Permits

November 24, 1987.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Cogeneration and Electric, Inc.

[Project No. 9056-002]

Take notice that Cogeneration and Electric Inc., permittee for the proposed White River Project, has requested that its preliminary permit be terminated. The permit was issued on September 30, 1985, and would have expired on August 31, 1988. The project would have been located on the White River in Mount Hood National Forest, in Wasco County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

2. Cogeneration and Electric, Inc.

[Project No. 9057-002]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed Middle Fork Willamette River Project, has requested that its preliminary permit be terminated. The permit was issued on October 3, 1985, and would have expired on September 30, 1988. The project would have been located on the Middle Fork Willamette River near the town of Oakridge, in Lane County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

3. Cogeneration and Electric, Inc.

[Project No. 9058-002]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed Green Point Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on September 30, 1985, and would have expired on August 31, 1988. The project would have been located on Green Point Creek in Mount Hood National Forest, in Hood River County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

4. Cogeneration and Electric, Inc.

[Project No. 9059–001]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed Wiley Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on September 25, 1985, and would have expired on August 31, 1988. The project would have been located on Wiley Creek near the town of Foster, in Linn County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

5. Cogeneration and Electric, Inc.

[Project No. 9060–001]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed North Boulder Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on August 29, 1985, and would have expired on July 31, 1988. The project would have been located on North Boulder Creek near the town of Sandy, in Clackamas County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

6. Cogeneration and Electric, Inc.

[Project No. 9061–002]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed Hills Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on September 30, 1985, and would have expired on August 31, 1988. The project would have been located on Hills Creek near the town of Oakridge, in Lane County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

7. Cogeneration and Electric, Inc.

[Project No. 9062–001]

Take notice that Cogeneration and Electric, Inc., permittee for the proposed Lake Branch Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on August 27, 1985, and would have expired on July 31, 1988. The project would have been located on the Lake Branch of the Hood River near the town of Dee, in Hood River County, Oregon. The permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on October 20, 1987.

Standard Paragraph

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–27460 Filed 11–27–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF81–18–001]

Trenton District Energy Co.; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

November 29, 1987.

Take notice that on November 17, 1987, Trenton District Energy Company, c/o Trigen Energy Corporation, 333 Park Avenue South, New York, New York 10010 (Attn: Eugene E. Murphy, Esq., Secretary), filed with the Federal Energy Regulatory Commission an application for recertification as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The Facility located in Trenton, New Jersey, is a 12 megawatt topping-cycle cogeneration facility. The original application for certification as a qualifying cogeneration facility was filed by Cogeneration Development Corporation on March 2, 1981 in Docket No. QF81–18–000. The Commission issued an order granting the application for certification on June 1, 1981. Trenton District Energy Company (TDEC) has filed this application in order to reflect a change in the ownership of the facility. Trigen Energy Corporation (Trigen) will acquire a general partnership interest in TDEC through Trigen's wholly-owned subsidiary, Trenton Energy Corporation (TEC), which will be allocated more than 50% of TDEC's profits, losses, gains or losses on sale and tax attributes. The owners of Trigen include subsidiaries of a French corporation which does own interests in electric generation facilities outside the United States. However, neither the subsidiaries nor the parent corporation are directly or indirectly engaged in the generation or sale of electric energy in the United States except solely from qualifying facilities.

Any person desiring to be heard or objecting to the grant of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.209 and 385.214 of this chapter. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[DR Doc. 87–27461 Filed 11–27–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CI88–10–000 and CI88–11–000]

Fina Oil & Chemical Co.; Applications for Permanent Abandonment and Blanket Limited-Term Certificate With Pregranted Abandonment

November 24, 1987.

Take notice that on October 7, 1987, as supplemented on November 17, 1987, Fina Oil & Chemical Company (Fina), 8350 N. Central Expressway, Suite 1866, Dallas, Texas 75206, filed applications pursuant to sections 7(b) and 7(c) of the Natural Gas Act and 18 C.F.R. 157.23 and 157.30 of the Commission's Regulations thereunder for: (1) Permanent abandonment in Docket No. CI88–11–000 of the sale of gas to Transcontinental Gas Pipe Line Corporation (Transco) from Vermilion Block 16 Field, Offshore Louisiana pursuant to respective gas purchase contracts dated July 30, 1960, and March 28, 1968, on file with the Commission as Fina Oil & Chemical Company FERC Gas Rate Schedule Nos. 125 and 126 and (2) a blanket one-year limited-term certificate with pregranted abandonment in Docket No. CI88–10–000 authorizing the sale for resale in interstate commerce of the released gas together with waiver of Part 154 of the Commission's Regulations requiring the establishment of rate schedules, including §154.94 (h) and (k), all as more fully set forth in the applications which

are on file with the Commission and open to public inspection.

Fina states in support of its application that as a producer and seller of natural gas, it acquired effective as of October 1, 1986, from TXP Operating Company its working interest in State Lease Nos. 3624, 3762, 3842, and 3763, Offshore Louisiana. As a result of this purchase, Fina is now the operator of the Block 16 Field properties. Gas produced from the Block 16 Field has previously been sold to Transco under the above-described gas purchase contracts. The contracts do not contain market-responsive price or quantity terms. Because Transco has severely curtailed purchases from Vermilion Block 16 Field under the contracts, Transco has accrued significant take-or-pay liability under these contracts during the last few years. As a result, in connection with its purchase of the Block 16 Field properties, Fina and Transco negotiated an amendment to the contracts. The amendment reduces the price payable under the contracts, and incorporates flexible, market-responsive quantity and price provisions. In exchange for these concessions, the amendment gives Fina rights to continue to sell the gas to Transco under the amendment's market responsive terms, or to request temporary or permanent release of the gas from the contracts, as amended, in order to sell to other producers. Pursuant to the amendment, Transco agrees to support Fina's application to abandon service under the contracts in order to effectuate these release rights. Fina seeks to develop other markets for this gas in addition to Transco, because Transco's past and current purchases of gas under the contracts have been, and will for the foreseeable future continue to remain, at levels significantly less than the deliverability of the wells. Deliverability is approximately 1,570 Mcf/day. The gas is NGPA section 104 recompletion/replacement contract gas (24%) and 104 flowing gas (76%).

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 10, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Fina to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27462 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER88-94-000, et al.]

Electric Rate and Corporate Regulation Filings; Arkansas Power & Light Co., et al.

November 18, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Co.

[Docket No. ER88-94-000]

Take notice that on November 10, 1987, Arkansas Power & Light Company (AP&L) tendered for filing revised Rate Formulas and Contract Revisions applicable to certain of its wholesale customers. The proposed Rate Formulas would increase revenues from the customers by $5,675,405 based on billing determinants for the 12-month period ended December 31, 1986. The revised rate formulas and contract revisions are proposed to take effect on January 9, 1988.

AP&L states that the proposed Rate Formulas are required to provide the Company a compensatory rate of return on its service to the affected jurisdictional customers.

Copies of the proposed Rate Formulas and contract revisions and statements comparing the sales and revenues therefrom were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Missouri Public Service Commission and the Tennessee Public Service Commission.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Co.

[Docket No. ER84-705-008]

Take notice that on November 10, 1987, Boston Edison Company (Edison) tendered for filing pursuant to Commission Order on Remand in Docket No. ER84-705-005 issued September 26, 1987, refunds to the Towns of Concord, Wellesley and Norwood to reflect the difference between revenues billed under the Rate S-8, Step B rate and the Rate S-8, Step A for the appropriate periods. The refunds sent to the Towns on October 26, 1987 cover the period April 28, 1985 through June 30, 1985 for Concord and Wellesley and April 28, 1985 through October 31, 1985 for Norwood.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Idaho Power Co.

[Docket No. ER88-93-000]

Take notice that on November 10, 1987, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulation Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during September 1987, along with cost justification for the rate charged. This filing includes the following supplements:

Pacific Power & Light Co., Supplement No. 23
Utah Power & Light Co., Supplement No. 70
Montana Power Co., Supplement No. 55
Washington Water Power Co., Supplement No. 53
Sierra Pacific Power Co., Supplement No. 68
Puget Sound Power & Light Co., Supplement No. 32
Portland General Electric Co., Supplement No. 57

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Oklahoma Gas and Electric Co.

[Docket No. ER88-88-000]

Take notice that on November 9, 1987, Oklahoma Gas and Electric Company (OG&E), an Oklahoma Corporation with its principal office at 321 N. Harvey, P.O. Box 321, Oklahoma City, Oklahoma, 73101, tendered for filing a Memorandum of Understanding dated October 22, 1987, between OG&E and Oklahoma Muncipal Power Authority (OMPA).

The Memorandum provides a three month period to modify operating procedures to allow OMPA to more nearly match its resources with its load and replaces an earlier Memorandum of Understanding. OG&E and OMPA request a waiver of notice requirements to allow an effective date of October 1, 1987.

Copies of this filing have been served on OMPA, Oklahoma Corporation Commission and Arkansas Public Service Commission.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Ohio Power Co.

[Docket No. ER88-97-000]

Take notice that on November 13, 1987, Ohio Power Company (OPCo) tendered for filing proposed changes in its electric resale rate schedules applicable to the wholesale municipal customers to reflect the decrease in the Federal corporate income tax rate pursuant to the Tax Reform Act of 1986. The proposed changes in resale rates will decrease annual revenues from the wholesale municipal customers by $891.357 based on the twelve-month period ending June 30, 1987. The proposed changes involve decreased demand charges. This rate decrease filing is being made pursuant to the abbreviated filing requirements set forth in 35.27 of the Commission's Rules and Regulations.

OPCo requests that this rate change be made effective as of July 1, 1987.

Copies of the filing were served upon the wholesale municipal customers and the Public Utilities Commission of Ohio.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Ohio Power Co.

[Docket No. ER88-98-000]

Take notice that on November 13, 1987, Ohio Power Company (OPCo) tendered for filing proposed changes in its electric resale rate schedules applicable to Wheeling Power Company to reflect the decrease in the Federal corporate income tax rate pursuant to the Tax Reform Act of 1986. The proposed change in resale rates will decrease annual revenues from Wheeling Power Company by $3,322.119 based on the twelve-month period ending June 30, 1987. The proposed changes involve decrease demand charges. This rate decrease filing is being made pursuant to the abbreviated filing requirements set forth in § 35.27 of the Commission's Rules and Regulations.

OPCo requests that this rate change be made effective as of July 1, 1987.

Copies of the filing were served upon Wheeling Power Company and the Public Service Commission of West Virginia.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Co.

[Docket No. ER88-90-000]

Take notice that on November 10, 1987, Portland General Electric Company (PGE) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 52. PGE states that this Rate Schedule has expired by its own terms.

PGE requests an effective date of September 30, 1987.

Copies of the filing have been served upon the City of Santa Clara and the Oregon Public Utility Commission.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Portland General Electric Co.

[Docket No. ER88-91-000]

Take notice that on November 10, 1987, Portland General Electric Company (PGE) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 59. PGE states that this Rate Schedule has expired by its own terms.

PGE requests an effective date of September 25, 1987.

Copies of the filing have been served upon Southern California Edison Company and Oregon Public Utility Commission.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Co.

[Docket No. ER88-92-000]

Take notice that on November 10, 1987, Portland General Electrric Company (PGE) tendered for filing a new Service Agreement with the City of Anaheim made under the Company's second revised Electric Service Tariff, Volume No. 1.

PGE requests an effective date of February 20, 1987 and, therefore, requests a waiver of the Commission's notice requirements.

Copies of the filing were served upon parties having Service Agreements with PGE, parties to the Intercompany Pool Agreement (Revised), and the intervenors in Docket No. ER77-131, and the Oregon Public Utility Commission.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Co. of Indiana, Inc.

[Docket No. ER88-99-000]

Take notice that on November 13, 1987, Public Service Company of Indiana, Inc. (PSI) tendered for filing proposed changes in its Rate Schedule FERC No. 233, Power Coordination Agreement with Wabash Valley Power Association, Inc. pertaining to Service Schedule B—Reserve Capacity and Back-up Energy and Service Schedule C—Firm Capacity and Energy to become effective July 1, 1987. The proposed changes would decrease revenues from jurisdictional sales and service by $1,192,745 based on the 12 month period ending June 30, 1987.

This voluntary filing is in compliance with the abbreviated rate filing procedure as adopted by the Commission in its Order No. 475, issued June 26, 1987. The adjustment to rates resulting from this order reflects the reduction in the Federal corporate income tax rate from 46% to 34%, effective July 1, 1987, pursuant to the Tax Reform Act of 1986.

Copies of the filing were served upon the Indiana Utility Regulatory Commission and the Wabash Valley Power Association, Inc.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Co.

[Docket No. ER88-96-000]

Take notice that on November 12, 1987, Southern California Edison Company (Edison) tendered for filing a change of rate for maintenance service under the provision of Edison's agreement with the Arizona Electric Power Cooperative, Inc. (AEPCO) Rate Schedule FERC No. 132. Edison requests that the new rates for this service be made effective January 1, of the years 1982, 1983, 1984, 1985, 1986, 1987, and 1988.

Edison states that the filing is in accordance with the terms of the agreement, which state that the rate for this service will be redetermined prior to January 1 of each year based on changes in the average hourly wage rate for the classification of personnel performing such maintenance.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Utah Power & Light Co.

[Docket No. ER88-95-000]

Take notice that on November 12, 1987, Utah Power & Light Company (UP&L) tendered for filing a Power Sales Agreement and Transmission Facilities Agreement between Nevada Power Company (Nevada) and UP&L. The Agreements provide for (1) the purchase by Nevada of baseload capacity and (2) the purchase by Nevada of peaking capacity and associated energy.

UP&L requests that the notice requirements of 18 CFR 35.3 be waived, as provided in 18 CFR 35.11, and that the Agreements be accepted for filing on or before January 1, 1988 in order to allow the parties to honor the terms and conditions of the Agreements.

Copies of the filing were served upon Nevada Power Company, Nevada Public Service Commission and Public Service Commission of Utah.

Comment date: December 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27456 Filed 11-27-87; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. ES88-12-000, et al.]

Electric Rate and Corporate Regulation Filings; Utilicorp United Inc., et al.

Take notice that the following filings have been made with the Commission:

1. Utilicorp United Co.

[Docket No. ES88-12-000]

November 20, 1987.

Take notice that on November 5, 1987, UtiliCorp United Inc. (Applicant) filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue evidences of indebtedness, exclusive of short-term notes, up to and including $250,000,000 in the aggregate at any one time outstanding, for periods of time not exceeding twelve months after issuance.

Comment date: December 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Southern Utilities Co.

[Docket No. ER88-108-000]

November 24, 1987.

Take notice that on November 19, 1987, Iowa Southern Utilities Company (Iowa Southern) tendered for filing a Transmission Agreement (Agreement), dated September 18, 1987, between Iowa Southern and the Missouri Joint Municipal Electric Utility Commission (Municipal Commission).

The Agreement sets forth the terms and conditions for: the maximum amount of transmission committed by Iowa Southern to be available to the Municipal Commission; the transmission service charge rate to be paid by the Municipal Commission to Iowa Southern; the transmission loss compensation to Iowa Southern; that the scheduling path that will be specified and separately agreed to by Iowa Southern and Iowa Public Service Company; and the procedure for scheduling power.

Iowa Southern requests a waiver of the Commission's notice requirement and Iowa Southern requests that the filing be permitted to become effective September 18, 1987.

Comment date: December 8, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Iowa Electric Light and Power Co.

[Docket No. ES88-14-000]

November 24, 1987.

Take notice that on November 16, 1987, Iowa Electric Light and Power Company (Applicant) filed an application under section 204(a) of the Federal Power Act, for authority to issue up to $100,000,000 of First Mortgage Bonds via negotiated placement.

Comment date: December 10, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Central Main Power

[Docket No. ER87-611-001]

November 24, 1987.

Take notice that on November 3, 1987, Central Maine Power (CMP) tendered for filing pursuant to Commission letter dated October 5, 1987, a compliance report of the revised tariff. CMP states that the only change from the current tariff is that the following sentence is added to the fuel clause adjustment:

In the event that a short-term operating reserve purchase is made by NEPOOL and an assessable share is billed to CMP, CMP will include in this clause only the cost of fuel associated with such purchase.

Comment date: December 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Cambridge Electric Light Co.

[Docket No. ER87-263-003]

November 24, 1987.

Take notice that on October 1, 1987, Cambridge Electric Light Company (Cambridge) tendered for filing its compliance refund report pursuant to the Commission's order issued September 15, 1987.

Copies of the tendered filing have been served by Cambridge upon the Town of Belmont, Massachusetts, the Commission's Staff and the Massachusetts Department of the Public Utilities.

Comment date: December 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27457 Filed 11-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-50-000, et al.]

Natural Gas Certificate Filings; Eastern Shore Natural Gas Co., et al.

November 24, 1987.

Take notice that the following filings have been made with the Commission:

1. Eastern Shore Natural Gas Co.

[Docket No. CP88-50-000]

Take notice that on October 27, 1987, as supplemented November 9, 1987, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover Delaware 19903-0615, filed in Docket No. CP88-50-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate three sales taps for the Delaware Division of

Chesapeake Utilities Corporation (Delaware Division), under the authorization issued in Docket No. CP83–40–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Eastern Shore proposes to construct and operate three sales taps for the Delaware Division. It is indicated that the first tap will be located on Rute 13 near Harrington, Kent County, Delaware. The proposed average quantity of gas to be delivered through this tap is 47 MMBtu per day and 17,197 MMBtu per year, it is stated. Eastern Shore further states that the estimated peak day of 135 MMBtu is within Delaware Division's current peak day supply of contract demand, storage and peak shaving. The volumes to be delivered would be within the certificated entitlements of Delaware Division, it is noted. It is alleged that the proposed service would not affect Delaware Division's load requirements from Eastern Shore on a design day. Eastern Shore states that the end use of the gas would be for Delaware Division's system supply and would be resold to industrial customers.

It is indicated that the second tap would be located on Route 13 in Camden, Kent County Delaware. Eastern Shore notes that the proposed average quantity of gas to be delivered through this sales tap is 737 MMBtu per day and 268,867 MMBtu per year. It is asserted that the volumes to be delivered would be within the certificated entitlements of Delaware Division. It is further asserted that the end use of the gas would be for Delaware Division's system supply and would be resold to industrial and residential customers.

Eastern Shore notes that the third tap would be located in Middletown, New Castle County, Delaware. The proposed average quantity of gas to be delivered through this sales tap is 65 MMBtu per day and 16,299 MMBtu per year, and estimated peak day volume is 248 MMBtu per year, it is stated. Eastern Shore asserts that the deliveries through this tap would not increase the total volume of gas delivered to Delaware Division but would simply constitute a shifting of volumes from one sales point to another. Eastern Shore further asserts that since in total there would be no volumetric change, the volumes delivered would be within the certificated entitlements of Delaware Division and would have no impact on Delaware Division's load requirements from Eastern Shore on a design day. The end use of the gas would be Delaware Division's system supply and would be resold to an industrial customer, it is indicated.

Eastern Shore states that the new tap in Middletown, Delaware, is located 1,488 feet south of railroad mile post 2 and the existing tap, from which the volumes are being redistributed, is located 696 feet north of the new tap. It is noted that the existing tap presently delivers approximately 23,805 MMBtu per year and would be reduced to 7,506 MMBtu per year. It is further stated that the 16,299 MMBtu difference is the proposed annual average volume of gas to be delivered through the new tap.

Eastern Shore states that its CD–1 rate schedule would apply to the sales service to be provided through the proposed sales taps. It is alleged that the combined annual volumes of the proposed sales taps is less than 4 percent of Eastern Shore's annual deliveries and would have a minimal impact on its remaining customers.

Comment date: January 8, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corp.

[Docket No. CP88–78–000]

Take notice that on November 13, 1987, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed at Docket No. CP88–78–000, an application pursuant to section 7(c) of the Natural Gas Act and the Federal Energy Regulatory Commission's regulations thereunder for a limited-term certificate of public convenience and necessity authorizing interruptible transportation for the account of Mobile Oil Corporation (Mobile), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to transport up to 96,000 Mcf per day of natural gas for the account of Mobile pursuant to a transportation agreement dated April 16, 1987, which Northwest indicates provides for transportation service under Rate Schedule T–2 of Northwest's FERC Gas Tariff Volume T–A. Northwest indicates that the term of the transportation agreement would commence with the effective date of regulatory authorizations and continue for ten years.

It is said that Mobile owns gas supplies in the Big Pawn Area located in Wyoming and the Piceance Creek Area located in Colorado which it would cause to be delivered to Northwest at Northwest's existing Opan Gasoline Plant in Lincoln County, Wyoming and at the Piceance receipt point in Rio Blanco County, Colorado, respectively. Northwest proposes to allow Mobil the flexibility to tender transportation gas from other sources, in addition to those specially described in the application, which are located behind the Piceance and Big Pawn receipt points.

Northwest proposes to transport and deliver gas supplies for the account of Mobil to existing interconnections with Colorado Interstate Gas Company (CIT) at the Green River delivery point in Sweetwater County, Wyoming; with El Pace Natural Gas Company at Ignacio in LaPlata County, Colorado; and with Pacific Gas Transmission Company at the Stanfield delivery point near Stanfield, Oregon.

Northwest states that Mobil has arranged downstream transportation with several interstate pipelines and with Southern California Gas Company (Siecle), a local distribution company, to complete the transportation from Northwest's delivery points to Mobil's various markets. It is indicated that Mobil's markets are: Mobil's enhanced oil recovery project, Mobil's Torrance Refinery, and Mobil's Beaumont Refinery, Southern California Edison Company, SoCal, Pacific Gas and Electric Company, Southwest Gas Company, Mission Resources Inc., Minnegasco Inc. and Consumers Power Company.

Northwest indicates that the transportation agreement provides for service pursuant to Rate Schedule T–2 of Northwest's FERC Gas Tariff, Volume 1–A. It is indicated that Northwest's currently effective Rate Schedule T–2 transportation rate is 5.46 cents per million Btu for each 100 mile billing unit, plus a Gas Research Institute charge of 1.50 cents per million Btu, Annual Commission Charge adjustment of 0.21 cents per million Btu and a fuel reimbursement charge which Northwest indicates would be a dollars-and-cents charge unless requested by Northwest in-kind. Northwest indicates that the transportation fuel rate is based upon 0.50 percenty of the quantity of gas received for transportation.

Comment date: December 15, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. Panhandle Eastern Pipe Line Co.

[Docket No. CP88–73–000]

Take notice that on November 12, 1987, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP88–73–000 an application pursusnt to section 7(b) of the Natural Gas Act as amended, for an order permitting and approving abandonment of a certificate of public convenience

and necessity which authorized the interruptible transportation of up to 400 Mcf per day of natural gas on behalf of Peoples Natural Gas Company (Peoples), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission) and open for public inspection.

Specifically, Panhandle requests approval to abandon the interruptible transportation service rendered to Peoples pursuant to Commission authorization granted to Panhandle, April 14, 1984, in Docket No. CP84–339. It is explained that the transportation agreement between Panhandle and Peoples dated January 5, 1984, expired under its own terms on January 5, 1986, and that the proposed abandonment of service would be with the consent of Peoples. Panhandle states that upon receiving the requested abandonment authorization it would cancel Rate Schedule No. T–56 of its FERC Gas Tariff, Original Volume No. 2 which reflects the expired Panhandle/Peoples agreement.

Comment date: December 15, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–27458 Filed 11–27–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRLJ–3296–4]

Proposed Administrative Penalty Assessment and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for an alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class I proceedings are conducted under EPA's "Guidance on Class I Clean Water Act Administrative Penalty Procedures". The procedures through which the public may submit written comment on a proposed Class I order or participate in a Class I proceeding, and the procedures by which a respondent may request a hearing, are set forth in the "Guidance on Class I Clean Water Act Administrative Penalty Procedures". The deadline for submitting public comment on a proposed Class I order is thirty days after issuance of public notice

On the date identified below, EPA commenced the following Class I proceeding for the assessment of penalties:

In the Matter of Cyprus Sierrita Corporation, Green Valley, Arizona; EPA Docket No. IX–FY88–11; filed on November 25, 1987, with Barbara Dimanlig, Acting Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974–0718; proposed penalty up to $25,000 for discharging without a permit as detected during an EPA Region 9 inspection on September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Guidance on Class I Clean Water Act Administrative Penalty Procedures, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the administrative record for each of the proceedings is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to December 31, 1987.

Dated: November 19, 1987.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 87–27417 Filed 11–27–87; 8:45 am]

BILLING CODE 6560–5–M

[OPP–00250; FRL–3297–1]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with the Special Review of Tributyltin (TBT); a set of scientific issues being considered by the Agency in connection with the peer review classification of: Aciflurofen as a Class B–2 oncogen; Assure as a Class C oncogen; Oxadixyl as a Class C oncogen; Methidathion as a Class C oncogen; Paraquat as a Class C oncogen; Savey as a Class B–2/C oncogen; Terbutryn as a Class C oncogen; Triadimenol (Baytan) as a Class C oncogen; and an information briefing on Part 158—Toxicology Data Requirements for Food Use Pesticides.

DATES: The meeting will be held on Tuesday, December 15, 1987, from 8:30 a.m. to 6:00 p.m.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS–769C), 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1121, Crystal Mall Building No. 2, Arlington, VA, (703–557–7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is: 1. Review of a set of scientific issues in connection with the Special Review of TBT. The Agency initiated a Special Review of TBT in January 1986, based on the Agency's determination that adverse acute and chronic effects of nontarget aquatic organisms may result from the use of TBT compounds as antifoulants.

2. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Aciflurofen as a Class B–2 oncogen (probable human carcinogen). The classification of Aciflurofen as a B–2 oncogen was based on an increased incidence of combined malignant and benign liver tumors in two different studies employing different strains (B6C3F1 and CR-CD-1) of mice.

3. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Assure as a Class C oncogen (possible human carcinogen). The classification of Assure was based on the incidence of liver tumors in CD–1 mice.

4. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Methidathion as a Class C oncogen (possible human carcinogen). The classification of Methidathion as a Class C oncogen was based on an increased incidence of hepatocellular adenoma/adenocarcinoma, adenoma, and adenocarcinoma only in one sex (male) and one species mouse.

5. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Oxadixyl as a Class C oncogen (possible human carcinogen) based on a significant increased incidence of benign hepatocellular tumors in both sexes in Han-Wistar rats.

6. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Paraquat as a Class C oncogen (limited evidence for oncogenicity in animals). The classification of Paraquat as a Class C oncogen was based on one study which showed increased in incidences in squamous cell carcinomas in male rats.

7. Review of a set of scientific issues being considered by the Agency's classification of Savey as a Class B–2/C oncogen (intermediate between probable and a possible human carcinogen). The classification of Savey as a Class B–2/C was based on varying interpretation of the evidence from two animal studies, in two species.

8. Review of a set of scientific issues being considered by the Agency's classification of Terbutryn as a Class C oncogen. The classification of Terbutryn as a Class C oncogen was based on increased incidences of benign and/or combined malignant/benign tumors in one species, the rat.

9. Review of a set of scientific issues being considered by the Agency's classification of Triadimenol (Baytan) as a Class C oncogen based on increased incidence of benign tumors in female mice but not in male mice or male and female rats.

10. An information briefing on Part 158—Toxicology Data Requirements for Food Use Pesticides.

11. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of documents relating to items 1–9 may be obtained by contacting:

By mail: Information Services Branch, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA., (703)–557–2805).

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or telephone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral and/or written statements should notify the Executive Secretary and submit ten copies of a summary no later than December 8, 1987, in order to ensure appropriate consideration by the Panel.

Dated: November 23, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87–27489 Filed 11–25–87; 11:16 am]

BILLING CODE 6560–50–M

[FRL–3296–4]

Southern Oahu Basal Aquifer in the Pearl Harbor Area of Oahu; Principal Source Aquifer Determination

AGENCY: Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: Pursuant to section 1424(e) of the Safe Drinking Water Act, the

Regional Administrator in Region IX of the U.S. Environmental Protection Agency (EPA) has determined that the Southern Oahu Basal Aquifer is the sole or principal source of drinking water for the entire Districts of Wahiawa and Ewa, and the portion of the Honolulu District west of the Manoa Stream channel and this aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed anywhere in the Pearl Harbor area mentioned above will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

ADDRESSES: The data on which these findings are based are available to the public any may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region IX, Water Management Division, Fifth Floor, 214 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Chris Wohlers, Office of Groundwater Protection, Water Management Division, Environmental Protection Agency, Region 9, at (415) 974–0830.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e), Pub. L. 93–523) the Regional Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Southern Oahu Basal Aquifer of Oahu is the sole or principal source of drinking water for the Wahiawa District, the Ewa District, and the portion of the Honolulu District west of the Manoa Stream channel. Pursuant to section 1424(e), Federal financially assisted projects, constructed anywhere in the Pearl Harbor area mentioned above, will be subject to EPA review.

I. Background

Section 1423(e) of the Safe Drinking Water Act states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register.** After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of the law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On May 3, 1983, Hazel Cunningham of Honolulu, Hawaii, petitioned the EPA to designate groundwater resources of the Pearl Harbor area as a principal source of drinking water. In response to this petition, EPA published a notice in the **Federal Register** on July 17, 1984, announcing receipt of the petition and requesting public comment. EPA prepared a draft technical document summarizing available information and proposing a sole or principal source aquifer designation. A public comment period, including a hearing on the proposed designation, was public noticed in the **Federal Register** on February 9, 1987. A public hearing was conducted on April 2, 1987, and the public was allowed to submit comments until April 16, 1987.

II. Basis for Determination

Among the factors to be considered by the Regional Administrator in connection with the designation of an area under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Regional Administrator has made the following findings, which are the bases for the determination noted above:

1. The Southern Oahu Basal Aquifer currenty serves as the "principal source" of drinking water for approximately 763,000 permanent residents within the Pearl Harbor area.

2. There is no existing alternative drinking water source, or combination of sources, which provides fifty percent or more of the drinking water to the designated area, nor is there any demonstrated available alternative future source capable of supplying the area's drinking water needs.

3. Although the water quality over most of the study area is satisfactory for domestic use, widespread potential exists for degradation. The main threats to the quality of the basal aquifer include salt water intrusion; recharge from excess irrigation; industrial, military and urban sources; landfills; chemical spills; poorly situated injection wells; and cesspools.

III. Description of the Southern Oahu Basal Aquifer

The aquifer is composed of a basal fresh water lens floating on sea water. The basal fresh water lens is a continuous, but compartmental aquifer situated in the coastal plain of southern Oahu. The aquifer is very thick, exceeding 1000 feet in some areas. Recharge is ultimately from rainfall as well as from excess irrigation. Total domestic water use in 1978 consisted of 68% groundwater resources from this system.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition from Hazel Cunningham of Honolulu, Hawaii, research of available literature on the groundwater resources of Oahu, and written and verbal comments submitted by the public. This data is available to the public, and may be inspected during normal business hours at the Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

V. Project Review

EPA Region IX will work with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures will be developed in which EPA will be notified of proposed commitments by federal agencies for projects which could contaminate the aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be entered into. However, a commitment for Federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. EPA will rely upon, to the maximum extent possible any existing or future state and local control mechanisms in protecting the groundwater quality of the aquifer. Included in the review of any Federal financially assisted project will be the coordination with the state and local agencies. Their comments will be given full consideration and the federal review process will attempt to complement and

support state and local groundwater mechanisms.

VI. Summary and Discussion of Public Comments

Overall, commentors at the public hearing favored designation by a margin of 18 to 8. EPA received several comments concerning whether the technical document implies that groundwater in Sourthern Oahu occurs in only one aquifer. EPA responded by referring to the technical document which defines the sole or principal source aquifer as being composed os semi-independent reservoirs.

One comment concerned the inference that irrigation return flow is a potential source of contamination without stating clearly the importance of irrigation return as a source of recharge. It was pointed out that the technncial document does identify irrigation return flow as a source of recharge as well as a potential source of contamination.

EPA received several comments stating that the designation is unnecessary because the Honolulu Board of Water Supply maintains a distribution system which interconnects the island's other sources of drinking water. EPA responded by recognizing the suitability of using this distribution system as a possible emergency source of drinking water. EPA also noted that no demonstration has been made concerning the long-term capability of the system to meet the entire island's needs.

EPA received several comments doubting the reliability and applicability of the references cited in the technical document. EPA responded by taking into account any new information and corrections, and setting aside any new data whch did not substantially differ from existing data or significantly affect its interpretation.

VII. Economic and Regulatory Impact

Pursuant to provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification, the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Pearl Harbor area. The only affected entities will be those businesses, organizations, or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a groundwater impact assessment required pursuant to other federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Pearl Harbor area. It provides additional reviews of groundwater protection measures, whenever possible, for only those projects which request Federal financial assistance. This regulation was submitted to OMB for review under EO 12291.

Dated: November 2, 1987.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 87-27418 Filed 11-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Petitions for Reconsideration of Actions in Rulemaking Proceedings; Correction

November 23, 1987.

On November 20, 1987, the Commission published in the **Federal Register** (52 FR 44634), a Notice of Petitions for Reconsideration (Report No. 1690) in CC Docket No. 87-113 (Amendment of Part 69 of the rules, Access Charges, to conform to Part 36, Jurisdictional Separations). That Notice was released on November 13, 1987. In the **Federal Register**, the date on which opposition are due was misstated as being November 27, 1987. The correct date is *December 8, 1987*. Replies to oppositions will be due on *December 18, 1987*.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-27502 Filed 11-27-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-802-DR]

Amendment to Notice of a Major-Disaster Declaration; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-802-DR), dated November 20, 1987, and related determinations.

DATED: November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

The notice of a major disaster for the State of Texas, dated November 20, 1987, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 20, 1987:

The Counties of Burleson, Lee, Panola, Shelby, Smith, and Upshur for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-27385 Filed 11-27-87; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-802-DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–802–DR), dated November 20, 1987, and related determinations.

DATED: November 20, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

Notice

Notice is hereby given that, in a letter dated November 20, 1987, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and tornadoes which occurred on November 15–16, 1987, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide Public Assistance in the affected areas, if required and necessary, and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any federal funds provided under PL 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The Counties of Anderson and Cherokee for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 27386 Filed 11–27–87; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritme Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested pesons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–002206–003

Title: CAPA/NWMTA Interconference Agreement

Parties: California Association of Port Authorities and Northwest Marine Terminal Association

Synopisis: The proposed agreement amends Agreement No. T–2206 to provide for termination thereof only upon written notice by one association to the other.

By order of the Federal Maritime Commission.

Dated: November 24, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–27390 Filed 11–27–87; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants; Jorma Int'l. Corp. et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Jorma Int'l. Corp, 59–24 157th Street, 2nd Floor, Flushing, NY 11355
Officers: Jorge T. Kumagai, President; Masako A. Kumagai, Director

Cassandra International Inc., 167–21 Rockaway Blvd., Jamaica, NY 11434
Officers: Julia P. Nouvertne, President/Director; Mary M. Palmer, Vice Pres./Sec./Director

O-Super Express, Inc., 366 Coral Circle, El Segundo, CA 90245
Officer: Sung Whan Hong, President

International Consolidators and Forwarders, Inc., 1350 New York Avenue, NW., Suite 1027 Washington, DC 20005
Officers: Edward Hart, President/Director; Louis A. Briganti, Director; Salvatore Messina, Director

DRW Transportation Services, Inc. 4726 Thibault Road Little Rock, Arkansas 72206
Officers: Dwight R. Weems, President/Director Norma E. Weems, Secretary/Director

Nedrac Incorporated, 3303 Harbor Blvd., Suite E–2, Costa Mesa, CA 92626
Officers: David C. Carden, President/Treasurer; Emily Siy-Gojkov, Secretary

W.E.B. International, Inc., 209 E. 66th Street, Apt. 2B, New York, NY 10021
Officer: E. Weber, President/Secretary

By the Federal Maritime Commission.

Dated: November 24, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 27391 Filed 11–27–87; 8:45 am]

BILLING CODE 6730–01–M

Truck Detention Charges at West Coast Ports; Filing of Petition For Rulemaking

Notice is given that a petition for rulemaking has been filed on behalf of the Waterfront Rail Truckers Union ("WRTU") by Jerry Bakke, WRTU's President, and Anthony Molino, Director and business agent for WRTU.

In its petition, WRTU requests that the Federal Maritime Commission ("Commission") promulgate a truck detention rule applicable at the Ports of Los Angeles, Long Beach, San Francisco, Oakland and San Diego. The proposed rule is almost identical to the rule currently in effect at the Port of New York as set forth in 46 CFR Part 530. However, WRTU's proposal also

includes licensing port terminal operators and truck brokers as defined in the petition.

In order for the Commission to make a thorough evaluation of the petition, interested persons are requested to submit views, arguments or data on the petition no later than January 8, 1988. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, in an original and 15 copies. Responses shall also be served on the filing party Waterfront Rail Truckers Union, 1840 So. Gaffey, San Pedro, California 90731.

Copies of the petition are available for examination at the Washington, DC office of the Commission, 1100 L Street NW., Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 87–27392 Filed 11–27–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

November 23, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer, Nancy Steele, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202–452–3822)

OMB Desk Officer, Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202–395–7340)

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. *Report title:* Monthly Survey of Selected Deposits and Other Accounts.
Agency Form Number: FR 2042
OMB Docket Number: 7100–0066
Frequency: Monthly
Reporters: Commercial banks, mutual savings banks, and FDIC-insured federal savings banks
Annual Reporting Hours: 21,921
Small businesses are affected.

General Description of Report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

These data, which are collected from a sample of comercial banks, mutual savings banks, and FDIC-insured federal savings banks, are used by the Federal Reserve to analyze and interpret movements in the monetary aggregates, observe competitive developments between banks and thrift institutions, and help monitor the earnings position of banks and thrifts.

2. *Report title:* Quarterly Survey of Number of Selected Deposit Accounts
Agency Form Number: FR 2071a and FR 2071 a–n
OMB Docket Number: 7100–0128
Frequency: Quarterly
Reporters: Commercial banks
Annual reporting hours: 675
Small businesses are affected.

General description of report: This information collection is voluntary (5 U.S.C. 248(a)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This report provides information on the number of MMDA and NOW accounts. Movements in the average size of these accounts are used in analyzing the behavior of the monetary aggregates.

Board of Governors of the Federal Reserve System, November 23, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–27366 Filed 11–27–87; 8:45 am]

BILLING CODE 6210–01–M

Agency Forms Under Review

November 23, 1987.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers of collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before December 15, 1987.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 am. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR § 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer, Nancy Steele, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822)

Proposal to approve under OMB delegated authority the implementation of the following report:

1. *Report title:* Survey to Obtain Information on the Relevant Market in Individual Merger Cases
Agency Form Number: FR 2060
OMB Docket Number: 7100–0226
Frequency: On occasion
Reporters: Small businesses and consumers
Annual Reporting Hours: 92
Small businesses are affected.

General Description of Report: This information collection is voluntary (12 U.S.C. 1828(c)) and is given confidential treatment (5 U.S.C. 552(b)(4) & (b) (6)).

To provide the Federal Reserve with information needed to analyze local market competition in specific merger and acquisition applications, Federal Reserve employees will conduct a telephone survey of small businesses and consumers.

Board of Governors of the Federal Reserve System, November 23, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-27367 Filed 11-27-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service; San Joaquin California Project (CF-LU-21), Tulare County, California; Transfer of Property

Transferring jurisdiction from the Department of Agriculture to Department of the Interior of certain Bankhead-Jones (7 U.S.C. 1011) lands to be used and administered as a part of the Pixley National Wildlife Refuge in California. By virtue of the authority vested in the President of the United States by section 32(c) of Title III of the Bankhead-Jones Farm Tenant Act, July 22, 1937, (50 Stat. 522, 525; 7 U.S.C. 1011(c)), as delegated by Executive Order 11609, to the Administrator of General Services, and upon the finding of the Secretary of Agriculture that this action will best serve the intended purposes of the Bankhead-Jones Farm Tenant Act, it is ordered as follows:

Subject to valid existing rights, jurisdiction over the following described lands, together with title and use records, water rights, improvements, and appurtenances, acquired, constructed, or used in connection with the use and administration of such land acquired by the Secretary of Agriculture under the provision of section 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011), are hereby transferred from the Department of Agriculture to the Department of the Interior to be added to the Pixley National Wildlife Refuge and managed, among other things, as critical habitat for the blunt nosed leopard lizard under the general land management authorities of the Secretary of the Interior: *Provided*, That twenty-five percent of all net revenues received by the Secretary of the Interior from grazing and other uses of the transferred lands shall be paid to the county in which such lands are located for the purposes specified in section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012):

California

All lands administered under title III of the Bankhead-Jones Farm Tenant Act in connection with the following described land Utilization Project: San Joaquin California Project (CF-LU-21), Tulare County, all of section 5 and the E1/2E1/2 section 6, Township 28 South, Range 24 East, Mount Diablo Meridian containing approximately 800 acres, more or less.

Dated: November 18, 1987.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 87-27407 Filed 11-27-87; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on November 6, 1987.

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-1238 for copies of package.)

1. Data Collection to Establish a Fee Schedule for the Services of Certified Registered Nurse Anesthetists (CRNAs)—NEW—Section 9320 of Omnibus Reconciliation Act requires HCFA to develop a fee schedule for the services of CRNAs furnished on or after January 1, 1987. This must be developed from cost report data. Respondents: State or local governments, Federal agencies or employees. Number of Respondents: 2,600; Frequency of Response: 1; Estimated Annual Burden: 1,300 hours.

2. Medicaid Eligibility Quality Control—Intermediary Care Reviews in 42 CFR 431.804(d)(3) and (4)—0938-0344—The information being collected is an optional additional sample of Medicaid eligibility cases which may be used by Medicaid State agencies to demonstrate that their actual current error rate is lower than that projected by HCFA. Respondents: State or local governments. Number of Respondents: 10; Frequency of Response: Quarterly; Estimated Annual Burden: 2,316 hours.

OMB Desk Officer: Allison Herron.

Public Health Services

(Call Reports Clearance Officer on 202-245-2100 for copies of package.)

Food and Drug Administration

1. Product License Application for the Manufacture of Blood Grouping Sera—0910-0061—All manufacturers of biological products must submit an application for review and approval to the Office of Biologics Research and Review prior to marketing a product in interstate commerce. Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations. Number of Respondents: 10; Frequency of Response: Occasionally; Estimated Annual Burden: 240 hours.

National Institutes of Health

1. Special Volunteer and Guest Researcher Assignment—NEW—NIH 590 records name, address, employer, education, and other information on prospective Special Volunteers and Guest Researchers, and is used by the responsible NIH approving official to determine the individual's qualifications and eligibility for such assignments. The form is the only official record of approved assignments. Respondents: Individuals or households. Number of Respondents: 200; Frequency of Response: Annually; Estimated Annual Burden: 16 hours.

OMB Desk Officer: Shanna Koss.

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers: HCFA: 301-594-1238, PHS: 202-245-2100.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer).

Date: November 24, 1987.

James F. Trickett,

Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87-27432 Filed 11-27-87; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Extramural Science Advisory Board; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Secretary, Health and Human Services, announces the establishment of the Extramural Science Advisory Board, NIMH, on November 20, 1987.

Dated: November 24, 1987.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-27427 Filed 11-27-87; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Advisory Committee for Elimination of Tuberculosis (ACET); Meeting

ACTION: Notice of meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Advisory Committee for Elimination of Tuberculosis (ACET).

Time and Date: 8:30 a.m.-5:00 p.m.—January 21, 1988. 8:30 a.m.-3:00 p.m.—January 22, 1988.

Place: Conference Room 207, Building 1, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open.

Purpose: This Committee advises and makes recommendations to the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for eliminating tuberculosis. Specifically, the Committee makes recommendations regarding policies, strategies, objectives, and priorities, addresses the development of new technologies and their subsequent application, and reviews progress toward elimination.

Matters to be Discussed: The Committee will discuss the Strategic Plan for elimination of tuberculosis in the United States. The committee will also review the CDC statement on TB/AIDS and current recommendations regarding BCG vaccine. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Dixie E. Snider, Jr., M.D., Director, Division of Tuberculosis Control, and Executive Secretary, ACET, Center for Prevention Services, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: FTS: 236-2501; Commercial: 404/329-2501.

Dated: November 23, 1987.

Evin Hilyer

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-27374 Filed 11-27-87; 8:45 am]

BILLING CODE 4160-18-M--M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 648]

Memorandum of Understanding

Following is the text of the Memorandum of Understanding between the Food and Drug Administration (FDA) and the Bureau of Alcohol, Tobacco and Firearms (ATF) in which both agencies agree to clarify and delineate the enforcement responsibilities of each agency with respect to alcoholic beverages considered adulterated under the Federal Food, Drug, and Cosmetic Act of 1938, and for other related purposes.

For further information contact the following offices:

Bureau of Alcohol, Tobacco and Firearms, Special Programs Branch, Norris L. Alford, 202-566-7569

Food and Drug Administration, Division of Regulatory Guidance, Center for Food Safety and Applied Nutrition, Curtis E. Coker, Jr., 202-485-0024.

Memorandum of Understanding Between the Food and Drug Administration and the Bureau of Alcohol, Tobacco and Firearms

1. Purpose

This agreement between the Food and Drug Administration (FDA) and the Bureau of Alcohol, Tobacco and Firearms (ATF) is to clarify and to delineate the enforcement responsibilities of each agency with respect to alcoholic beverages considered adulterated under the Federal Food, Drug, and Cosmetic Act of 1938, and for other related purposes. Specifically, this Memorandum of Understanding will:

(A) Effect a more efficient system of communication and exchange between FDA and ATF;

(B) Confirm ATF policy with respect to the labeling of ingredients and substances in alcoholic beverages that pose a public health problem; and

(C) Clarify and coordinate the responsibilities of each agency with respect to the identification, testing, and recall of adulterated alcoholic beverages.

2. Background

A. Pursuant to the Federal Food, Drug and Cosmetic Act of 1938, as amended (FD&C Act), 21 U.S.C. 301, *et seq.*, FDA has authority, *inter alia*, to take action with respect to adulterated food products, including alcoholic beverages, both domestic and imported. Among other things, a food is adulterated under section 402 of the FD&C Act if it was produced, packed, or held under insanitary conditions; if it contains any poisonous or deleterious substance which may render the food injurious to health; or if it contains an unapproved food additive. FDA has authority to initiate seizure of adulterated foods, including alcoholic beverages, and to seek to enjoin the introduction of such products into interstate commerce. The FD&C Act also authorizes FDA to refuse entry of imported products that appear to be adulterated and misbranded.

B. Pursuant to the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 201, *et seq.* and the Internal Revenue Code of 1986 (IRC), Title 26, U.S.C., ATF has authority over distilled spirits, wines, and malt beverage products, both domestic and imported. In particular, section 5 of the FAA Act (27 U.S.C. 205) vests ATF with the authority to promulgate regulations regarding the labeling and advertising of alcoholic beverages to insure that they provide the consumer with adequate information concerning the identity and quality of such products.

Section 5(e) also makes it unlawful to sell or ship or deliver for sale or shipment, or otherwise introduce into interstate or foreign commerce, or to receive therein, or to remove from customs for consumption, any distilled spirits, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with regulations prescribed by the Secretary of the Treasury. ATF is charged with the administration and enforcement of the FAA Act and does this through, *inter alia*, the issuance of permits and through procedures that require the prior approval of all labels. In addition, ATF is charged with the administration and enforcement of Chapter 51 of the IRC, relating to Distilled Spirits, Wines and Beer. This chapter in conjunction with the FAA Act establishes a comprehensive system of controls of alcoholic beverages, including on-site inspections and

procedures that require the advance approval of statements of process and of formulas showing each ingredient to be used in the product. The IRC also vests authority in ATF to detain any container that will be removed in violation of law (26 U.S.C. 5311) and vests ATF with seizures and forfeiture authority (26 U.S.C. 7302).

3. Agreement

It is understood and agreed between the parties, as follows:

(A) ATF will be responsible for the promulgation and enforcement of regulations with respect to the labeling of distilled spirits, wine, and malt beverages pursuant to the FAA Act. when FDA has determined that the presence of an ingredient in food products, including alcoholic beverages, poses a recognized public health problem, and that the ingredient or substance must be identified on a food product label, ATF will initiate rulemaking proceedings to promulgate labeling regulations for alcoholic beverages consistent with ATF's health policy with respect to alcoholic beverages. ATF and FDA will consult on a regular basis concerning the propriety of promulgating regulations concerning the labeling of other ingredients and substances for alcoholic beverages.

(B) FDA will, upon ATF's request, provide ATF with a health hazard evaluation with respect to any substance found in alcoholic beverages. ATF agrees to provide FDA with any data or analyses it may have with respect to the substance in question.

(C) ATF will be responsible for testing alcoholic beverages to determine the extent of an adulteration problem. To the extent practicable, FDA will provide laboratory assistance at the request of ATF.

(D) ATF will prepare, in consultation with FDA, comprehensive formal procedures and guidelines for implementing voluntary recalls of adulterated alcoholic beverages. These procedures and guidelines will be developed in light of the FDA procedures and guidelines for such recalls and shall be implemented by ATF after review and comment by FDA.

(E) ATF, as the agency with a system of specific statutory and regulatory controls over alchoholic beverages, will have primary responsibility for issuing recall notices and monitoring voluntary recalls of alcoholic beverages that are adulterated under FDA law or mislabeled under the FAA Act by reason of being adulterated. This agreement does not affect or otherwise attempt to restrict the seizure or other statutory and regulatory authorities of the respective agencies.

(F) When FDA learns or is advised that an alcoholic beverage is or may be adulterated, FDA will contact ATF.

(G) When ATF learns or is advised that an alcoholic beverage is or may be adulterated, ATF will consult with FDA before it takes any action with repect to a notice of recall for the product. FDA, in turn, will expeditiously provide ATF with a written health hazard evaluation of each product involved in a recall situation or potential recall situation. ATF will provide FDA with any data or analyses it may have with respect to the product in question to assist FDA in undertaking a health hazard evaluation. Upon receipt of a FDA health hazard evaluation indicating a definitive hazard, ATF will advise the responsible firm as to an appropriate course of action which might include a voluntary recall.

(H) In situations involving a recall notice of an adulterated alcoholic beverage, ATF will advise FDA of how ATF intends to proceed and will keep FDA apprised of developments with respect to such recall.

(I) In situations involving a recall of an adulterated alcoholic beverage that poses a significant risk to the public health, ATF will consult with FDA before issuing any press release. Press releases will be issued in accordance with established ATF procedures and guidelines.

(J) FDA and ATF laboratories will continue to exchange information concerning methodologies and techniques for testing alcoholic beverages.

(K) FDA and ATF will continue to exchange a wide variety of information, including relevant consumer complaints concerning the adulteration of alcoholic beverages.

4. Parties to Agreement

The parties to this agreement are:

The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, 1200 Pennsylvania Avenue NW., Washington, DC 20226

and

The Food and Drug Administration, Department of Health and Human Services, 200 C Street, SW., Washington, DC 20204.

5. Duration of Agreement

This agreement becomes effective upon acceptance by both parties and shall remain in effect indefinitely. This agreement may be modified by mutual consent or terminated by either party upon a thirty (30) day advance written notice to the other.

6. Liaison Officers

For ATF: Norris L. Alford, Chief, Special Programs Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone Number: 202–566–7569

For FDA: Curtis E. Coker, Jr., Division of Regulatory Guidance, Center for Food Safety and Applied Nutrition, Food and Drug Administration, Washington, DC 20204, Telephone Number: 202–485–0024.

Dated: November 20, 1987.

W. E. Drake,

Acting Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

Dated: November 20, 1987.

Frank E. Young,

Commissioner of Foods and Drugs, Food and Drug Administration, Department of Health and Human Services.

[FR Doc. 87–27313 Filed 11–27–87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program, Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting on January 7, 1988, of the National Toxicology Program (NTP) Board of Scientific Counselors, Reproductive and Developmental Toxicology Program Review Subcommittee. The meeting will be held in Conference Room C, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709.

The meeting begins at 9:00 a.m. and will be open to the public. The primary agenda topics are reviews of the protocol for studies of Reproductive Assessment by Continuous Breeding (RACB), proposed modifications to the RACB protocol, concept review for continuation of developmental toxicity studies, and review of research efforts of the staff at the National Institute of Environmental Health Sciences, the National Center for Toxicological Research and the National Institute for Occupational Safety and Health.

The Executive Secretary, Dr. Larry Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, Telephone (919) 541–3971, FTS 629–3971, will furnish the final agenda. The roster of Subcommittee members and other

program information will be available prior to and at the meeting, and summary minutes will be available subsequent to the meeting.

Dated: November 23, 1987.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 87-27455 Filed 11-27-87; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Finding Regarding Foreign Social Insurance or Pension System—Saudi Arabia

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—Saudi Arabia.

Finding: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that Saudi Arabia, beginning March 1, 1987, has a social insurance system of general application in effect which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death, but that under this social insurance system, citizens of the United States who are not citizens of Saudi Arabia, and who leave Saudi Arabia, are not permitted to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Saudi Arabia has in effect, beginning March 1, 1987, a social insurance system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)), but not the requirements of section 202(t)(2)(B) of the Act (42 U.S.C. 402(t)(2)(B)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4)(A) and (B)) provide that, subject to certain residency requirements of section 202(t)(11), section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the provisions of subparagraph (A) and (B) of section 202(t)(4) do not apply to citizens of Saudi Arabia.

This revises our previous finding (published July 26, 1958 at 23 FR 5674) that Saudi Arabia does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act.

FOR FURTHER INFORMATION CONTACT: J. Joseph Rausch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 965-3567.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Dated: November 20, 1987.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 87-27378 Filed 11-27-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

DEPARTMENT OF AGRICULTURE

Scientific Review of National Nutrition Monitoring System Information and Data; Announcement of Study; Opportunities To Provide Data and Information; Open Meetings; Closed Meetings

AGENCY: Office of the Assistant Secretary for Health, Department of Health and Human Services *and* Office of the Assistant Secretary for Food and Consumer Services, United States Department of Agriculture.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the United States Department of Agriculture (USDA) are announcing that the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB) is: (a) Undertaking a scientific review of information and data from the National Nutrition Monitoring System; (b) preparing a scientific report on national nutritional status; (c) providing an opportunity for presentation of written and oral views, information, and data at an open meeting of the ad hoc Expert Panel on National Nutrition Monitoring; (d) providing an opportunity for further written comments to the Expert Panel subsequently; and, (e) providing notice of meetings of the ad hoc Expert Panel.

DATES: (1) An open meeting of the ad hoc Expert Panel will be held on January 21, 1988, at 9:00 a.m. EST at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland.

(2) A further opportunity to provide written comments will be available after March 31, 1988.

(3) Further information on these dates will also be available from the addresses indicated below.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, (301) 530-7030. Catherine Woteki, Project Officer, Division of Health Examination Statistics, National Center for Health Statistics, 3700 East-West Highway, Hyattsville, MD 20782, (301) 436-7068.

SUPPLEMENTARY INFORMATION: DHHS and USDA are announcing a jointly supported contract (DHHS No. 282-87-0051) with FASEB to undertake a review

of dietary intake and nutritional status information and data from the National Nutrition Monitoring System (NNMS). In response to the agencies' request, the LSRO of FASEB has established an ad hoc Expert Panel on National Nutrition Monitoring. The LSRO and the Expert Panel are aware of the increased responsibility undertaken jointly by the DHHS and the USDA for developing, implementing, and operating a coordinated system for monitoring the nutritional and dietary status of the U.S. population. The two Departments are responsible for the planning and coordination functions of the NNMS and for the conduct of a variety of nationwide surveys through which the basic data on the nutritional and dietary status of the population are gathered. In addition, DHHS and USDA are committed to increasing the scope of useful information collected, improving the efficiency of the surveys, increasing the amount and sophistication of data analysis, and ensuring the timely release of information that provides a scientific foundation for the Federal Government's responsibilities to establish a sound and coordinated nutrition policy.

The Departments are also obligated to present reports to Congress, at three-year intervals, which assess the nutritional status of the U.S. population based on data collected by the NNMS and recommend changes in the system. The first of these reports was presented to the Congress in 1986 and provided a descriptive overview of the nutritional and dietary status of the U.S. population.[1] It was prepared by representatives of both DHS and USDA with the guidance of a jointly appointed Federal advisory body named the "Joint Nutrition Monitoring Evaluation Committee" (JNMEC). The Committee set objectives for the coverage of topics in the first report and in future reports. The second and subsequent reports are intended to build on the foundation provided by the first report through an expanded and detailed interpretative discussion and analysis of factors that influence food intake and nutritional status in the United States.

Under terms of Contract No. 282-87-0051, FASEB, through its LSRO and the Expert Panel, will assist DHHS and USDA by providing a report which presents a scientific review of the dietary and nutritional status of the U.S. population, as well as factors that determine status, based on data and information available through the NNMS and other sources. The findings and conclusions of the report will serve as the scientific basis for consideration by DHHS and USDA in their joint report to the U.S. Congress in 1989.

The report to be prepared will build on the descriptive foundation established in the 1986 report of the JNMEC. It will consist of an update on the dietary and nutritional status of the U.S. population based on data from the NNMS produced or released since publication of the first report. An in-depth integrative analysis of two specific topics, nutritional factors in cardiovascular disease and assessment of iron nutriture, will also be included in the report.

The specific scope of work of LSRO and its Expert Panel includes:

(a) An update of the trend and baseline data on nutritional status and food and nutrient intake presented in the 1986 nutrition monitoring report. Sources of relevant data to be used in this evaluation may include the Hispanic Health and Nutrition Examination Survey, the 1985 and 1986 Continuing Surveys of Food Intake by Individuals, the 1980 Food and Drug Administration Vitamin/Mineral Supplement Intake Survey, the 1986 Health Interview Survey, data from the USDA Economic Research Service, and available data from other components of the NNMS including the Centers for Disease Control, Food and Drug Administration, Human Nutrition Information Service, and the National Institutes of Health. In addition, the Expert Panel will reevaluate the categorization of food components established in 1986 with respect to completeness of data and monitoring priority. If changes are recommended, the rationale for any recategorization will be accompanied by sufficient evidence of supporting data. If new assessment criteria are established, the rationale will be documented.

(b) In-depth analyses of two topics selected as examples of NNMS health and dietary data: the first represented by data on the relationship of diet to a specified chronic disease, emphasizing nutritional factors in cardiovascular disease; and the second by assessment of iron nutriture. These two topics were selected because of their public health significance and because of the breadth of data available from the NNMS. In 1986, the JNMEC found that the principal nutrition-related health problems experienced by Americans arise from overconsumption of fat, saturated fatty acids, cholesterol, and sodium. Excessive intakes of these food components are associated with an increased risk of developing cardiovascular diseases. The Committee also found that dietary, biochemical, and hematological data indicate that iron nutriture is a problem in some subgroups of the population. In developing this portion of its report, the Expert Panel will identify how NNMS data can contribute to understanding of these public health concerns. Emphasis will be on the ability to identify the nature and magnitude of nutrition-related problems in the U.S. population, identification of groups at risk, the setting of interpretative criteria and the limits of interpretation, the detection of trends, the assessment of factors (personal, household, demographic, health-related, or attitudinal) that determine dietary intake and nutritional status, and the identification of gaps in the databases. Possible sources of relevant data include those listed above as well as the second National Health and Nutrition Examination Survey, report from the National Health Interview Surveys, labor and census statistics, and others.

The ad hoc Expert Panel is composed of expert scientists whose knowledge and experience in a variety of disciplinary areas are necessary to successful completion of the contractual work. These disciplinary areas include agricultural economics, behavioral science, clinical nutrition, community nutrition, epidemiology, nutritional biochemistry, public health, and statistics. Members of the ad hoc Expert Panel are: C. Wayne Callaway, M.D., George Washington University Medical Center, Washington, DC; Oral Capps, Jr., Ph.D., Texas A&M University, College Station, TX; Catherine Cowell, Ph.D, New York City Department of Health, New York, NY; Peter R. Dallman, M.D., University of California, San Franscisco, CA; Ronald N. Forthofer, Ph.D., University of Texas School of Public Health, Houston, TX; A. Catharine Ross, Ph.D., Medical College of Pennsylvania, Philadelphia, PA; Howard G. Schutz, Ph.D., University of California, Davis, CA.

Notice is hereby given that the ad hoc Expert Panel will hold an open public meeting at which opportunity will be provided for organizations and individuals to present written and oral views, information, and data on the

[1] U.S. Department of Health and Human Services and U.S. Department of Agriculture: Nutrition Monitoring in the United States—A Progress Report from the Joint Nutrition Monitoring Evaluation Committee. DHHS Publication No. (PHS) 86-1255. Public Health Service. Washington, DC: U.S. Government Printing Office, July 1986.

topics in the scope of work as outlined above. The open public meeting will be held on January 21, 1988, at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland. At that meeting, comments, views, and information related to the topics identified in the Expert Panel's scope of work will be received. This notice invites submission of written comments, views, information, and data on the topics identified in the scope of work as outlined above. Three copies of any written submission should be forwarded to the Project Officer (address above). Three copies of any written submission should be sent to the Life Sciences Research Office (address above). The deadline for receipt of such information is January 15, 1988. Written requests to make oral presentations should be sent to the addresses above and must be received before December 31, 1987. Organizations and individuals who wish to make oral presentations will be notified by the LSRO as to detailed instructions on submission of abstracts of presentations and other requirements, scheduling of presentations, and other pertinent information.

On or about March 31, 1988, the Expert Panel will announce and make available publicly its tentative outline for the report. Organizations and individuals who wish to obtain the tentative outline for the report should request copies in writing from the Life Sciences Research Office (address above). By this notice, the Expert Panel is soliciting submission of written comments, views, information, and data pertinent to the tentative outline of the report. Copies of the tentative outline and information on submission of written comments, views, information, and data will be available from the Life Sciences Research Office on or about April 1, 1988.

Interested persons should be aware that the Expert Panel will be meeting in executive session during the period November 1, 1987, through March 31, 1989, at FASEB (address above). In addition, the Expert Panel will meet after the conclusion of the public meeting in executive session to consider all the information and views received at the open meeting, written submissions, and all other published data and information obtained by the Expert Panel in the course of its review. Information on agendas for each meeting to be held under terms of this contract will be available from LSRO (address above).

Dated: November 23, 1987.

J. M. McGinnis,

Deputy Assistant Secretary for Health (Office of Disease Prevention and Health Promotion), Department of Health and Human Services.

Suzanne S. Harris,

Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture.

[FR Doc. 87-27393 Filed 11-27-87; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Amendments to the Fish and Wildlife Permit/License.

Abstract: The amended information collection requirement will implement the amendments contained in the proposed rule to provide uniform rules and procedures for the application, issuance, renewal, suspension, revocation, and general administration of permits contained in 50 CFR Part 13. The Service further proposes changes in 50 CFR Part 21 relative to permits for the taking, possession, transportation, importation, sale, purchase, barter, and banding or marking of migratory birds.

Service Form Number: 3-200

Frequency: On occasion

Description of Respondents: Individuals and small businesses

Annual Responses: 16,795

Annual Burden Hours: 21,218

Service Clearance Officer: James E. Pinkerton, 202-653-7500.

Date: November 17, 1987.

James C. Gritman,

Assistant Director, Refuges and Wildlife.

[FR Doc. 87-27408 Filed 11-27-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement for the Proposed Development of the Miner Flat Dam Project on the White Mountain Apache Indian Reservation, Navajo County, AZ

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Bureau of Indian Affairs (BIA) is issuing this Notice to advise that an Environmental Impact Statement will be prepared for a proposed project to construct a water development project on the White Mountain Apache Indian Reservation in Navajo County located in eastcentral Arizona.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Heuslein, Area Environmental Protection Specialist, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona 85001, telephone (602) 241-2281 or FTS 261-2281.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, in cooperation with the White Mountain Apache Indian Tribe, will prepare an Environmental Impact Statement (EIS) on a proposed water development project to be constructed on the White River in the Salt River drainage of Arizona. The proposed action involves the construction and operation on the proposed Miner Flat Dam Project and associated facilities. Need for the project is to expand an irrigation system for agriculture development and hydropower production for residential, community, and industrial purposes on the reservation.

Information describing the proposed action will be sent to the appropriate Federal, tribal, state and local agencies and to private organizations and citizens expressing an interest in this proposal.

Scoping meeting to identify issues and alternatives to be evaluated in the EIS will be held on December 15, 1987, at the Tribal Headquarters, Whiteriver, Arizona, at 3:00 p.m. and on December 16, 1987, at the Phoenix Indian School Auditorium, 45 East Midway Avenue, Phoenix, Arizona, at 7:00 p.m. Comments and participation in the scoping process are solicited and should be directed to the BIA at the address provided above.

Significant issues to be covered during the scoping process include biotic; archeological, cultural and historic sites; socioeconomic conditions; visual and land use; air and water quality; and resource use patterns. Potential environmental impacts that may result

from the proposal are: Cultural resources and biological resources.

We estimate the Draft EIS will be available for public review in approximately six months.

This notice is published pursuant to § 1501.7 of the Council on Environmental Quality regulations (40 CRF Parts 1500–1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Department of the Interior Manual (516 DM 1–6) and is in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 19, 1987

Hazel E. Elbert,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 87–27429 Filed 11–27–87; 8:45 am]

BILLING CODE 4310–01

Bureau of Land Management

[NV–010–08–5410–10–ZFKC; N–45128]

Realty Action; Conveyance of Federal Mineral Interest in Elko County, NV

Notice is hereby given that pursuant to the Act of October 21, 1976 (43 U.S.C. 1719(b)), the Toano Corporation, has applied for conveyance of the Federal mineral interest for the following lands:

Mount Diablo Meridian, Nevada

T. 33 N., R. 70 E.,
Sec. 7, W½SW¼, SE¼SW¼;
Sec. 17, NE¼NE¼, S½NW¼NE¼, NW¼NW¼NE¼, W½NE¼NW¼NE¼, S½NE¼, NW¼, N½SW¼, NE¼SE¼;
Sec. 18, All.

Comprising 1,195 acres.

The area described above is located in Elko County, Nevada. Upon publication in the **Federal Register**, these lands will be segregated from all other forms of appropriation under the public land laws, including the mining laws.

For a period of 45 days from the date of this notice, interested persons may submit comments to the Elko District Manager, Bureau of Land Management, 3900 E. Idaho Street, Elko, Nevada 89801.

Rodney Harris,

District Manager.

Dated: November 19, 1987.

[FR Doc. 87–27409 Filed 11–27–87; 8:45 am]

BILLING CODE 4310–HC–M

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Meeting

Notice is herby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that a meeting of the Acadia National Park Advisory Commission will be held on Monday, January 11, 1988. Committee workshops will be held on Friday, December 4, 1987, and Monday, December 7, 1987.

The Commission was established pursuant to Pub. L. 99–420, section 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The Committee workshop on conservation easements will convene at the Fire House in Bass Harbor, Maine, on December 4, 1987, at 10:00 a.m. The Committee workshop on acquisition guidelines will convene at Acadia National Park Headquarters, Bar Harbor, Maine, on December 7, 1987, at 9:00 a.m. The January 11, 1988, meetings will convene at the Mount Desert Town Office Building, Sea Street, Northeast Harbor, Maine. The Easement Committee and the Acquisition Guidelines Committee meetings will begin at 10:00 a.m., and the full Commission will meet at 1:00 p.m. to consider the following agenda:

1. Report from Easement Committee.
2. Report from Acquisition Guidelines Committee.
3. Review of Loop Road proposal.
4. Old business.
5. New business.
6. Public comments
7. Proposed agenda and date of next Commission meeting.

Committee meetings and the full Commission are open to the public.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609 tel: (207) 288–3338.

Date: November 18, 1987.

Steven H. Lewis,

Deputy Regional Director.

[FR Doc. 87–27371 Filed 11–27–87; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 297 (Sub–7)]

Motor Carrier Rate Bureaus; Expansion of Collective Ratemaking Territory

AGENCY: Interstate Commerce Commission.

ACTION: Request for further comments.

SUMMARY: In 1984, the Commission sought comments on several requests by motor carrier rate bureaus to expand the territorial scope of their collective ratemaking activities (49 FR 10381, March 20, 1984). Oral argument was held on December 4, 1984. In an open voting conference held on May 21, 1985, the Commission voted to withhold disposition pending its review of MC–82 rate bureau [1] agreements filed pursuant to the Motor Carrier Act of 1980. Since then, the MC–82 rate bureau agreements have all received at least provisional approval, and the Commission will now consider the merits of the proposals. However, since the Commission concluded at the voting conference that the record was insufficent properly to evaluate the likely effects of nationwide collective ratemaking, it seeks further comments. Comments should address: (1) Whether territorial expansion is desirable, especially in light of the expanding geographic and territorial scope of individual member carriers; and (2) the benefits (or detriments) of such action.

DATES: Comments are due: January 29, 1988.

Replies must be received by: February 29, 1988.

ADDRESS: Send comments (an original and 10 copies) referring to Ex Parte No. 297 (Sub-No. 7), to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Harold Johnson, (202) 275–7971

or

Jane Udovic, (202) 275–7831 (TDD for hearing impaired, (202) 275–1721)

SUPPLEMENTARY INFORMATION: Additional information is contained in

[1] The MC–82 bureaus are those listed at 49 CFR 1139.1(b) and Niagara Frontier Tariff Bureau, Inc.

the Commission's decision. Copies of the decision are available from the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, (202) 275–7428, (assistance for the hearing impaired is available through TDD Services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: November 19, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–27426 Filed 11–27–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31160]

The Atchison, Topeka and Santa Fe Railway Co.; Trackage Rights; Chicago and North Western Transportation Co.

Chicago and North Western Transportation Company (C&NW) has agreed to grant overhead trackage rights to The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) between Iowa Junction (C&NW Station No. 2647+86) and Hollis (C&NW Station No. 9+15), a total distance of approximately 5.0 miles, in Illinois. The C&NW-Santa Fe agreement replaces a prior agreement, dated April 2, 1928, between Santa Fe and Peoria Terminal Company. The C&NW-Santa Fe trackage rights transaction was consummated on November 17, 1987, effective October 19, 1985 (the date the 1928 agreement was terminated, in accordance with its terms, by William M. Gibbons, Trustee of Chicago, Rock Island and Pacific Railroad Company, sole owner of Peoria Terminal Company).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: November 18, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–27288 Filed 11–27–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31041]

Butte/Anaconda Historical Park and Railroad Corp.; Lease and Operation and Acquisition Exemption; Certain Lines of the State of Montana

The State of Montana (Montana), on behalf of the Butte/Anaconda Historical Park and Railroad Corporation (BAHP), has filed a notice of exemption to lease, operate, and acquire in the future a line owned by Montana and operated by Rarus, Inc. (Rarus), a Class III railroad. The subject line is known as the Missoula Gulch and Butte Hill LIne, and is entirely contained in Silver Bow County, MT. The Missoula Gulch Line extends from milepost 0.0 at Rocker to milepost 4.40 at the Butte Hill Yard. The Butte Hill Line extends from milepost 0.0 at the Butte Hill Yard to milepost 3.69 near the Badger Mine. Associated with the lines are an additional 3.67 miles of yards, sidings, and turnouts.

Rarus currently operates the subject line under a lease-purchase agreement. The agreement will be severed approximately four weeks after the exemption becomes effective, and Montana will enter into a long term lease-purchase agreement with BAHP. Under the lease-purchase agreement between Montana and BAHP, BAHP is allowed to lease the line for up to 15 years, and it may exercise its option to purchase the line at any time. Rarus will provide common carrier service on the line pursuant to a contract with BAHP. It is unclear whether Rarus will be operating the line in its own name or on behalf of BAHP. A separate notice of exemption will be required with respect to the operation of the line by Rarus (or any other operator) in its own name. Any comments must be filed with the Commission and served on David P. Desch, Montana Department of Commerce, 1424 Ninth Avenue, Helena, MT 59620.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 9, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–27289 Filed 11–27–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31154]

Gordon H. Fay and George E. Bartholomew—Continuance in Control; Seminole Gulf Railway, L.P.

Gordon H. Fay and George E. Bartholomew filed a notice of exemption, under 49 CFR 1180.2(d), concerning their continuance in control of Seminole Gulf Railway, L.P. (LP), a limited partnership that will become a carrier upon its purchase of lines of railroad from CSX Transportation Inc., in Florida.[1] Messers Fay and Bartholomew now jointly control The Bay Colony Railroad Corporation (Bay Colony), a carrier. They have formed a new corporation, The Seminole Gulf Railway, Inc. (SGLR) to act as the general partner of L.P.

The railroads to be controlled do not connect with each other, and the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate families. Bay Colony operates a Class III carrier in Massachusetts, and LP will operate as a Class III carrier in Florida.

This exemption does not relieve a carrier of its statutory obligation to protect the interests of employees. Under 49 U.S.C. 11347, imposition of conditions for the protection of railroad employees is mandatory. We have found that the employee protective conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees affected by transactions under 49 U.S.C. 11343. Accordingly, this exemption will be subject to these conditions for affected railroad employees.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: November 12, 1987.

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[1] A notice of exemption in Finance Docket No. 31155 covering that acquisition will be served and published in the **Federal Register** concurrently with this notice of exemption.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27290 Filed 11-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 71X)]

Missouri Pacific Railroad Co.; Abandonment Exemption; Washington County, MO (Lumtie Branch)

Missouri Pacific Railroad Company has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*, to abandon 1.75 miles of the Lumtie Branch in Washington County, MO, extending from railroad milepost 60.8 near Mineral Point to the end of the line at railroad milepost 62.55 near Lumtie.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and the line does not handle overhead traffic; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective December 30, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by December 10, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 21, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, Law Department, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 17, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[Docket No. AB-33 (Sub-No. 48X)]

Union Pacific Railroad Co., Exemption; Abandonment in Solano and Yolo Counties, CA

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*, to abandon its Dozier-Montezuma Branches of railroad extending from milepost 64.33 near Dozier, CA, to milepost 64.61 on the Montezuma Branch, and continuing from that point which commences the Dozier Branch to the end of the line at milepost 76.135 near Libfram, CA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line or may be rerouted, and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmenal or energy impacts are likely to result from this abandonment.

As a condition to use this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91(1979). [1]

The exemption will be effective December 30, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by December 10, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 21, 1987 with: Office of the Secretary, Case Control Branch Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 18, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27294 Filed 11-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31155]

Seminole Gulf Railway, L.P.; Exemption to Acquire and Operate—CSX Transportation, Inc.

Decided: November 13, 1987.

Seminole Gulf Railway, L.P. (LP), a noncarrier, has filed a notice of exemption to acquire and operate CSXT Transportation, Inc.'s lines of railroad between Arcadia (M.P. SVC 883.0) and Vanderbilt Beach (M.P. AX 990.689), and between Oneco (M.P. SW 875.0) and Venice (M.P. SW 904.425), all in the State of Flordia.[1]

Comments must be filed with the Commission and served on Applicant's representative, William P. Quinn, Esquire, Rubin, Quinn & Moss, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106, (215) 925-8300. This transaction will involve the issuance of securities by L.P. which, upon operation of the line, will be a Class III carrier. The issuance of these securities is an exempt transaction under 49 CFR 1175.1.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

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[1] The Railway Labor Executives' Association filed a request for the imposition of labor protective conditions. Since the subject abandonment involves an exemption from section 10903, such conditions have been imposed routinely.

[1] The common control of L.P. and a nonconnecting carrier, Bay Colony Railroad Corporation, is the subject of a notice of exemption filed pursuant to 49 CFR 1180.2(d)(2) in Finance Docket No. 31154 that is being served and published in the Federal Register concurrently with this notice.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27291 Filed 11-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31140]

Wyoming and Colorado Railroad Co., Inc.; Acquisition and Operation Exemption—Certain Lines of Union Pacific Railroad Co.

Wyoming and Colorado Railroad Company, Inc., has filed a notice of exemption to acquire and operate 131.52 miles of line of Union Pacific Railroad Company. The property consists of the former Coalmont Branch from milepost 0.19 at Laramie, WY, and beginning 770 ft. from the switch of the west leg of the wye to the end of track at Hebron, CO, at milepost 108.0 (107.81 miles) and the former Encampment Branch from milepost 0.57 at Walcott, WY, to the end of track at Saratoga, WY, at milepost 24.28 (23.71 miles). Any comments must be filed with the Commission and served on Frank S. Warner, 543-25th Street, Ogden, UT 84401.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 9, 1987.

By the Commission, Jane P. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc 87-27292 Filed 11-27-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and Resource Conservation and Recovery Act; Conservation Chemical Co. et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 23, 1987, a proposed Consent Decree in *United States v. Conservation Chemical Company, et al.*, Civil No. 82-0983-CV-W-5, was lodged with the United States District Court for the Western District of Missouri. The proposed Consent Decree concerns a lawsuit filed under section 7003 of the Resource Conservation and Recovery Act (RCRA) and sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The proposed Consent Decree requires the defendants to implement a remedial action which includes surface cleanup and a surface cap, a withdrawal well system for contaminated groundwater, and a groundwater treatment and monitoring system to remedy conditions at the hazardous waste landfill in Kansas City, Missouri owned by the Conservation Chemical Company. The defendants are also required to pay response costs to the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Conservation Chemical Company, et al.*, DJ Ref. 90-7-1-8.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Missouri, 811 Grand Avenue, Kansas City, Missouri 64106 and at the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Rm. 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or my mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy please enclose a check in the amount of $6.70 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

The Court has indicated that it will conduct a hearing to receive the views of interested parties commencing at 9:00 a.m., November 23, 1987, in the United States Courthouse, 811 Grand Avenue, Kansas City, Missouri.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-27402 Filed 11-27-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Augat-Vitek, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 9, 1987—November 13, 1987 and November 16, 1987—November 20, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed the criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,070; Augat-Vitek, Inc., El Paso, TX

TA-W-20,110; Van Leer Containers, Inc., Jersey City, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,160; El Paso Natural Gas Co., Coyanosa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,157; AT&T Information Systems, Shreveport, LA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,177; Clovis Riley, Inc., Pearsall, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,126; Mechanical Systems, Inc., Houston, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,109; USS Minnesota Ore Operations, Mt. Iron, MN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,188; Metal Litho Corp., Elizabeth, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,106; Rebel Geophysical, Inc., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,198; Watson's Tee House, Inc., Miami, FL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,226; Loffland Brothers Co., New Braunfels, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,152; Seamless Hospital Products, Fayette, AL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,131; Todd Shipyard Corp., Jersey City, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,156; TRW-EPI, Colorado Springs, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,116; Bigheart Pipe Line Corp., OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,117; Bow Pipe Line Co., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,144; Kanawha Coal Co., Ashford, WV

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,120; Dillingham Ship Repair, Portland, OR

The workers' firm does not produce an article as required for certification under sction 222 of the Trade Act of 1974.

TA-W-20,132; Unisys Corp., Eagan, MN, Building, Component Prep Avenue

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,133; Unisys Corp., Plant 8, Prototype Manufacturing Operations, Eagan, MN

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-20,095; Veeder-Root Co., Hartford, CT

A certification was issued covering all workers of the firm separated on or after September 3, 1986.

TA-W-19,782; L.B.C. Corp., Miami, FL

A certification was issued covering all workers of the firm separated on or after March 6, 1986 and before April 6, 1987.

TA-W-20,139; Eaton Corp., Fluid Power Div., Power Steering Pump Line, Marshall, MI

A certification was issued covering all workers of the firm separated on or after January 1, 1987.

TA-W-20,119; China, Inc., North Bergen, NJ

A certification was issued covering all workers of the firm separated on or after September 17, 1986 and before January 31, 1988.

TA-W-20,191; Pervel Industries, Inc., Plainfield, CT

A certification was issued covering all workers of the firm separated on or after October 1, 1986.

TA-W-20,960; Mobil Exploration & Producing, Denver Div, Denver, CO

A certification was issued covering all workers of the firm separated on or after July 15, 1986.

TA-W-20,100; Corona Plastic, Inc., Denville, NJ

A certification was issued covering all workers of the firm separated on or after April 4, 1987.

TA-W-20,091; Dynapac Mfg, Inc., Stanhope, NJ

A certification was issued covering all workers of the firm separated on or after April 4, 1987.

TA-W-20,147; Latez Industries, Inc., Chippewa Lake, OH

A certification was issued covering all workers of the firm separated on or after September 24, 1986.

TA-W-20,102; Harowe Servo Controls, Inc., West Chester, PA

A certification was issued covering all workers of the firm separated on or after September 11, 1986.

TA-W-20,098; Centralab, Inc., Ceramics Department, El Paso, TX

A certification was issued covering all workers of the firm separated on or after June 1, 1987 and before October 31, 1987.

TA-W-20,118; Champion Die Co., Lynn, MA

A certification was issued covering all workers of the firm separated on or after September 18, 1986.

TA-W-20,127; NCA, Inc., Burlington, NC

A certification was issued covering all workers of the firm separated on or after September 18, 1986.

I hereby certify that the aforementioned determinations were issued during the period November 9, 1987—November 13, 1987 and November 16, 1987—November 20, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: November 24, 1987.

[FR Doc. 87-27442 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,071]

Cumberland Steel Co., Cumberland, MD; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Cumberland Steel Company, Cumberland Maryland. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-20,071; Cumberland Steel Company, Cumberland, Maryland. (November 23, 1987.)

Signed at Washington, DC this 23rd day of November 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-27440 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,957]

General Motors Corp. BOC Leeds, Kansas City, MI.; Negative Determination Regarding Application for Reconsideration

By an application dated November 4, 1987, the company requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at General Motors Corporation, BOC Assembly Leeds, Kansas City, Missouri. The denial notice was signed on September 22, 1987 and published in the **Federal Register** on October 6, 1987 (52 FR 37381).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company claims that worker separation at General Motors (GM), BOC Leeds Assembly, Kansas City, Missouri were the result of a loss in sales to competitive imports. The company cites sales data showing that Toyota, Honda, Nissan and Hyundai reported increased sales in the U.S. market in 1987 compared to 1986.

Workers at BOC Leeds Assembly produce three car models—Chevrolet Cavalier, Buick Skyhawk and the Oldsmobile Firenza—all J-body type cars. The department includes the GM J-body family of cars in a small car classification which includes other domestic and foreign cars of similar characteristics.

Industry data indicate that GM and the foreign segment of the small car market experienced a market share loss, while all other domestic manufacturers of small cars experienced an increase in sales and market share in the first three quarters of model year 1987 compared to the same period of model year 1986. The market share loss experienced by GM in this market was attributable to domestic competition, not to foreign competition. Sales data for competitive Toyota, Honda, Nissan and Hyundai were included in the Department's analysis.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 19th day of November 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Acturial Services, UIS.

[FR Doc. 87-27443 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,925 and TA-W-19,926]

General Motors Corp.; BOC Orion and BOC Wentzville Assembly Centers; Affirmed Determination Regarding Application for Reconsideration

In the matter of General Motors Corporation—TA-W-19,925, BOC Orion Assembly, Orion Township, Michigan, and TA-W-19,926 BOC Wentzville Assembly Center, Wentzville, Missouri.

By an application dated October 23, 1987, the company requested reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers at the subject locations of General Motors Corporation. The denial notice was published in the **Federal Register** on October 6, 1987 (52 FR 37381).

The company claims that the Department used the standard automobile classification in making its determination rather than the high or standard/lower luxury automobile classification.

Conclusion. After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 19th Day of November 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-27434 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19, 782]

L.C.B. Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 31, 1987 applicable to all workers of L.C.B. Corporation, Miami, Florida.

Based on new information furnished by the company, the Office of Trade Adjustment Assistance, reviewed the certification. The additional information revealed that several workers were retained by the company past the April 6, 1987 termination date to close down the circuit breaker manufacturing operations at the plant.

The intent of the certification is to cover all workers of L.C.B. Corporation who were affected by the closing of the Miami, Florida plant. The notice, therefore, is amended by providing a new termination date of August 1, 1987.

The amended notice applicable to TA-W-19, 782 is hereby issued as follows:

All workers of L.C.B. Corporation, Miami, Florida who became totally or partially separated from employment on or after March 6, 1986 and before August 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of November 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-27435 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,812]

Levelor South Venetian Blinds; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 13, 1987 applicable to all workers of Levelor South Venetian Blinds, Hialeah, Florida. The Certification contained a

termination date of March 31, 1987. The Certification was published in the Federal Register on January 21, 1987 (52 FR 2306).

Based on new information furnished to the Department by the company, some laid off workers were retained after the March 31, 1987 termination date set in the certification to phase out operations and prepare the plant for closing.

The intent of the certification is to cover all workers at Levelor South Venetian Blinds, Hialeah, Florida who were affected by increased imports of venetian blinds and window shades. The notice is amended by inserting a new termination date of November 20, 1987.

The amended notice applicable to TA-W-19,812 is hereby issued as follows:

All workers of Levelor South Venetian Blinds, Hialeah, Florida who became totally or partially separated from employment on or after May 28, 1986 and before November 20, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 19th Day of November 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislative and Actuarial Services, UIS.

[FR Doc. 87-27436 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,148]

Mt. Carmel Fashions; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 5, 1987 in response to a worker petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at Mt. Carmel Fashions, Mt. Carmel, Pennsylvania.

An active certification covering the petitioning group of workers remains in effect (TA-W-20,077). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 19th day of November 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-27437 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16, 732, et al]

AT&T Information Systems; Kent, WA, et al; Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 and in accordance with section 223 of the Act, on July 3, 1986, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of AT&T Information Systems' warehouses in Kent, Washington; Miami, Florida and Minneapolis, Minnesota. A significant portion of output at each of the subject warehouses was part of the integrated production process of telephone sets manufactured at AT&T Information Systems' plant in Shreveport, Louisiana.

The notice of certification was published in the Federal Register on July 23, 1986 (51 FR 26483).

Pursuant to section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers at the subject locations continue to be attributable to the conditions specified in section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than (December 10, 1987).

The record of the certifications (TA-W-16,732, TA-W-16,733, and TA-W-16,738), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 20th day of November 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-27441 Filed 11-27-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-97]

National Environmental Policy Act; Availability of Draft Environmental Impact Statement

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Aeronautics and Space Administration has prepared a supplemental draft environmental impact statement (EIS) relating to the proposed Galileo and Ulysses Missions. Comments on the supplemental draft EIS and on matters set forth therein are solicited from and may be submitted by State and local agencies and members of the public. Such comments should be submitted to Dr. Dudley G. McConnell, Code EL, Washington, DC 20546. All comments must be received within 45 days of this notice in order to be considered in the preparation of the final EIS.

Copies of the draft statement may be obtained or examined at any of the following locations:

(a) NASA Headquarters, Public Documents Room (Room 126), 600 Independence Avenue, SW., Washington, DC 20546.

(b) NASA/Ames Research Center (Building 201, Room 17), Moffett Field, CA 94035.

(c) NASA/Ames Research Center, Dryden Flight Research Facility (Building 4800, Room 1017), PO Box 273, Edwards CA 93523.

(d) NASA/Goddard Space Flight Center (Building 8, Room 150), Greenbelt, MD 20771.

(e) NASA/Johnson Space Center (Building 1, Room 136), Houston TX 77058.

(f) NASA/Kennedy Space Center (Headquarters Building, Room 1207), Kennedy Space Center, FL 32899.

(g) NASA/Langley Research Center (Building 1219, Room 304), Hampton VA 23365.

(h) NASA/Lewis Research Center (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(i) NASA/Marshall Space Flight Center (Building 4200, Room G-11), Huntsville, AL 35812.

(j) NASA/National Space Technology Laboratories (Building 1100, Room A-213), Bay St. Louis, MS 39520.

(k) Jet Propulsion Laboratory (Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91109.

(l) NASA/Goddard Space Flight Center, Wallops Flight Facility (Library Building, Room E-105), Wallops Island, VA 23337.

November 12, 1987.

C. Howard Robins, Jr.,

Deputy Associate Administrator for Management.

[FR Doc. 87-26704 Filed 11-27-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (Narrative Film Development Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Narrative Film Development Section) to the National Council on the Arts will be held on December 15, 1987, from 9:00 a.m.-6:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financal assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

November 20, 1987.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 87-27410 Filed 11-27-87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Philosophy, Technology, and Criteria; Revision of Agenda

The **Federal Register** published on Thursday, November 19, 1987 (52 FR 44502) contained notice of a meeting of the ACRS Subcommittee on Safety Philosophy, Technology, and Criteria to be held on December 2, 1987, Room 1046, 1717 H Street, NW., Washington, DC. The agenda has been revised as noted below:

Wednesday, December 2, 1987—1:00 P.M. Until the Conclusion of Business

The Subcommittee will discuss the Staff's proposed implementation plan for the Safety Goal Policy Statement.

Dated: November 23, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-27394 Filed 11-27-87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Generic Items; Meeting

The ACRS Subcommittee on Generic Items will hold a meeting on December 16, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, December 16, 1987—12:00 noon until the conclusion of business*

The Subcommittee will discuss with representatives from the Duke Power Company the steps involved in implementing the resolution of Generic Issues and/or Unresolved Safety Issues (USIs), the contribution to plant safety resulting from the implementation of the resolution of Generic Issues and USIs, and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Sam Duraiswamy (telephone 202/6344-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: November 24, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-27449 Filed 11-27-87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability Assurance; Meeting

The ACRS Subcommittee on Reliability Assurance will hold a meeting on December 16, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, December 16, 1987—8:00 a.m. until the conclusion of business.*

The Subcommittee will explore the current status of equipment qualification research. Current plans for an equipment qualification scoping study will be presented.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify

the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: November 23, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–27450 Filed 11–27–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos.: 50–374 and 50–374]

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing; Commonwealth Edison Co.

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–11 and NPF–18 issued to Commonwealth Edison Company (the licensee), for operation of LaSalle County Station, Units 1 and 2 located in LaSalle County, Illinois.

These amendments will allow removal of the Main Steam Line Isolation from Main Steam Tunnel temperature and differential temperature sensors. The alarm function from the sensors will be retained to provide early indication of potential steam leaks. The proposed amendments were sent to NRC on July 10, 1987.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 28, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceedings (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Indentification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Council—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Micheal Miller, Isham, Lincoln, and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 10, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, DC, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Bethesda, Maryland this 20th day of November 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects–III, IV, V and Special Projects.

[FR Doc. 87–27446 Filed 11–27–87; 8:45am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Mississippi Power & Light Co., et al. (Grand Gulf Nuclear Station, Unit 1); Exemption

I.

Mississippi Power & Light Company, System Energy Resources, Inc., and South Mississippi Electric Power Association (the licensees) are the holders of Facility Operating License No. NPF–29, issued November 1, 1984, which authorizes operation of the Grand Gulf Nuclear Station, Unit 1 (the facility). This license provides, among other things, that the licensees are subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission). The facility is a boiling water reactor located in Claiborne County, Mississippi.

II.

Appendix A of 10 CFR Part 20 defines protection factors for respirators. Footnote d–2(c) of this appendix states, "No allowance is to be made for the use of sorbents against radioactive gases or vapors."

By letter dated June 29, 1987, System Energy Resources Inc. (SERI, or the licensee) requested an exemption to 10 CFR Part 20, Appendix A, footnote d–2(c) in accordance with 10 CFR 20.103(e). By letter dated August 21, 1987, the licensee provided further justification for the exemption in response to our requests for additional information.

The licensee has provided test data and canister qualification information by reference to Mine Safety Appliances (MSA) Company data submitted in conjunction with a similar request by Alabama Power Company for the Joseph M. Farley Nuclear Plant, Units 1 and 2 (Docket Nos. 50–348 and 50–364). SERI has provided detailed information relating to the request for exemption to 10 CFR Part 20, Appendix A, footnote d–2(c). The exemption would allow the use of a radioiodine protection factor of 50 for MSA GMR–1 canisters to be used at the facility.

The licensee has maintained good fuel integrity with minimal leakage and uses process or engineered controls to the extent practicable to maintain airborne contamination exposures as low as reasonably achievable. However, in the event of significant failed fuel, airborne radioactive levels could exceed the capability afforded by these controls. This would require respiratory protection from radioiodine for workers needing to enter such an environment for maintenance or other purposes. The requested exemption would allow the use of an air-purifying respirator in lieu of supplied air or self-contained apparatuses for the workers in such an event. The less cumbersome air-purifying respirators can provide increased comfort and mobility in most cases, resulting in less physical effort and stress, increased worker efficiency and decreased personnel exposure time.

Criteria and background information used for the evaluation includes 10 CFR 20.103; 10 CFR 19.12; Regulatory Guide 8.15, "Acceptable Programs for Respiratory Protection"; Regulatory Guide 8.20, "Applications of Bioassay for I–125 and I–131"; NUREG/CR–3403, "Criteria and Test Methods for Certifying Air-Purifying Respirator Cartridges and Canisters Against Radioiodine"; and Regulatory Guide 8.8, "Information Relevant to Ensuring That Occupational Radiation Exposures at Nuclear Power Stations Will Be As Low As Is Reasonably Achievable." The staff's discussion and evaluation of the request for exemption follows.

Since a National Institute for Occupational Safety and Health/Mine Safety Health Administration (NIOSH/MSHA) testing and certification schedule for sorbents for use for protection against radioiodine gases and vapors has not been developed, the NRC staff has evaluated the licensee's request and verified, as required by 10 CFR 20.103(e), that the licensee has demonstrated by testing, or by reliable test data and adequate quality assurance measures, that the material and performance characteristics of the MSA GMR–I canister can provide the proposed degree of protection (i.e., a protection factor of 50), under the anticipated conditions of use, for 8 hours. The main considerations of the staff's technical evaluation were canister efficiency and service life, including the effects of temperature, poisons, relative humidity, challenge concentration and breathing rates on canister efficiency and service life. The staff's programmatic evaluation considered quality control/quality assurance measures employed to assure canister performance, and radiation protection/ALARA measures, such as preparation and planning for work, on-the-job evaluations, use of engineering controls, radiological surveillance and radiological training.

The licensee has provided reliable test information which verifies that the sorbent canister selected (MSA GMR–I) will provide a protection factor of 50 for over a period of 8 hours of continuous use, provided that the total challenge of radioactive and nonradioactive iodine and other halogenated compounds does not exceed 1 ppm and the temperature does not exceed 120°F., or the dewpoint does not exceed 107°F. The data provided by MSA shows the breakthrough point of the GMR–I canister to be well beyond 8 hours.

Testing has been conducted under acceptable conditions of cyclic flow, and under worst-case conditions for those environmental factors affecting service life: temperature, relative humidity, and challenge concentration of CH_3I (methyl iodide), which is the most penetrating of the challenge forms. MSA data provided by the licensee indicates that the MSA GMR–I canisters perform adequately under the accepted test conditions. These conditions—the criteria and test methods—are consistent with those derived for the canisters by the staff in NUREG/CR–3403, and are acceptable.

The licensee has provided commitments that the MSA GMR–I canisters will meet the standards for quality assurance and quality control which are recognized by NIOSH, compatible with NRC staff positions, and are therefore acceptable. This includes a commitment by MSA to establish a 1% acceptable quality limit (AQL) in a 5 to 10 ppm challenge concentration of CH_3I, 90% relative humidity, 110°F, 64 LPM cycle flow, for a service life of 8 hours or more at penetrations equal to 1% of the challenge concentration. Testing data provided by the licensee has demonstrated that performance (i.e., service life) of canisters at 100% relative humidity is acceptable.

Certain limitations and precautions based on the sorbent canister manufacturer's recommendations and NUREG/CR–3403 guidance are necessary for effective utilization of the sorbent canisters. The staff agrees with the following limitations and usage restrictions as proposed by the licensee:

1. Protection factor equal to 50 as maximum value.

2. The maximum permissible continuous use time is 8 hours, after which the canisters will be discarded.

3. Canisters are not to be used in the presence of organic solvent vapors.

4. Canisters are to be stored in sealed, humidity-barrier packaging in a cool, dry environment.[1]

5. The allowable service life for sorbent canisters is to be calculated from the time of unsealing the canister, including periods of non-exposure.

6. Canisters are to be used with a full facepiece capable of providing protection factors greater than 100.

7. Canisters are not to be used in total challenge atmosphere concentrations of organic iodines and other halogenated compounds greater than 1.0 ppm, including nonradioactive compounds.

8. Canisters are not to be used in environments where the temperature exceeds 120°F or the dewpoint exceeds 107°F.

In addition to the Limitations and usage restrictions noted above, the licensee will utilize the following administrative and procedural controls:

1. Temperatures will be measured each shift and/or coincidently with operations which raise the temperature in work areas to ensure that temperatures do not exceed 120°F or the temperature corresponding to a dewpoint of 107°F during sorbent canister use.

2. In the initial implementation of GMR–I canister use, the following program verification measures will be used:

a. Weekly whole-body counts are to be provided for individuals using the sorbent canister for radioiodine protection;

b. For individuals who exceed 10 MPC hours in 7 consecutive days, a whole-body count will be required prior to their next entry into a radioiodine atmosphere (i.e., effectively a 10 MPC hour stay time);

c. If an individual measures 70 nCi or greater iodine uptake to the thyroid during a whole body count, the individual's entry into radioiodine atmospheres will be restricted pending health physics evaluation; and

d. A whole body count/survey data base will be compiled to evaluate the results of the program.

3. Grand Gulf Nuclear Station, Unit 1 procedures and administrative practices for chemical control currently exist which restrict painting and chemical releases in areas served by the standby gas treatment system (SGTS). Since use of the GMR–1 canister will most likely be in the same areas served by the SGTS, the proposed environment for GMR–1 canister use will be assured.

In addition, the licensee will revise health physics procedure 01–S–08–4 to incorporate the restrictions for use of GMR–I canisters. These revised procedures will restrict use of GMR–I canisters in areas where painting or use of organic vapors or chemicals is in progress or has recently been completed.

4. Existing respiratory protection program requirements and restrictions (e.g., physicals, fit tests, 10 CFR Part 20 requirements, Appendices A and B) still apply and the licensee will modify respiratory program lesson plans to include specific aspects of issue and use of GMR–I canisters.

Coupled with the use of a full facepiece and with the capability of providing a protection factor of greater than 100, the protection factor of 50 is conservative under these conditions. Canister efficiency will be retained for the radioiodine gas or vapors of interest (CH_3I, I_2, HOI) for this time period (i.e., 8 hours). Additionally, the licensee has provided data which shows the breakthrough point to be well beyond 8 hours. To preclude aging, service life will be calculated from the time the canister is unsealed, including periods of non-use, and the canister will not be used in the presence of organic solvent vapors or high temperatures. Canisters will be stored in sealed, humidity-barrier packaging in a cool, dry environment, and discarded after the 8-hour use period to prevent reuse. Through usage restrictions and air sampling, the licensee will preclude exposures to organic solvent vapors and chemicals (such as decontamination compounds, lubricants, volatilized paint, alcohols, freon) which could cause aging, poisoning, or desorption of the absorbed radioiodines. The licensee will modify their health physics and respiratory protection procedures regarding the proper use and limitations of MSA GMR–I canisters prior to use for radioiodine protection.

The primary bases for the licensee's request for exemption are not only the potentials for reduction of the physical work effort and stress on the worker, but also the potential for reduction in personnel exposure. On the basis of task analyses performed by two other licensees (Alabama Power Company and Southern California Edison Company, SERI estimates that the utilization of air-purifying respirators in lieu of air-supplies or self-contained apparatuses, where possible, can result in overall dose savings of approximately 30% at the facility for tasks requiring radioiodine protection. The lightweight, less cumbersome air-purifying respirators (i.e., sorbent canisters) can provide increased comfort and mobility in most cases, and result in increased worker efficiency and decreased on-the-job time. The licensee has performed a task analysis based on the actual man-hours and person-rems expended during the facility's first refueling outage. This analysis shows that the use of sorbent canisters at the facility can result in significant dose savings and should be an effective ALARA measure.

Other actions taken by the licensee to ensure that exposures to radioiodine are as low as is reasonably achievable are: Conduct of radioiodine air sampling before and during activities involving the use of sorbent canisters for radioiodine protection; use of engineering controls such as negative pressure ventilation blowers and the drywell purge system to reduce airborne levels to as low as practical levels; use of the offgas system and condensate demineralizers to reduce radioiodine concentrations during normal power operations; area decontamination to control contamination levels; and maintenance planning for scheduled outages to allow for radioiodine decay times, where practicable, prior to major breeches of contaminated systems. Whole-body counts will be conducted routinely (e.g., weekly and at 10 MPC hours) for individuals using the sorbent canisters for radioiodine protection and radioiodine data will be trended to detect problems; an investigation level for radioiodine uptakes has been established (at 70nCi); training of workers and health physics technicians in the use and restrictions for use of sorbent canisters for radioiodine protection will be conducted prior to their use; and procedures iterating the controls, restrictions, and requirements have been developed and will be implemented. The licensee's efforts to keep exposure ALARA are consistent with our positions in Regulatory Guide 8.8 and are acceptable.

In summary, the staff's review of the licensee's proposal indicates that the licensee has maintained good fuel integrity with minimal leakage at the facility since startup commenced in 1982. Through the use of process and engineering controls, the licensee is committed to maintaining exposures to airborne contamination as low as reasonably achievable. However, in the event of significant failed fuel, it is conceivable that airborne radioiodine levels may exceed the protection capability provided by these controls. For this reason, the licensee has

[1] Sorbent canisters will be maintained in licensee Class "A" storage as defined in ANSI N452.2 after receipt onsite, except for those maintained for ready issue in the respirator issue area. The Class "A" storage area used to store the sorbent canisters at the Grand Gulf Nuclear Station will be a special temperature and humidity-controlled room in the main warehouse.

requested an exemption for the use of a radioiodine protection factor for sorbent canisters to provide respiratory protection from radioiodine for workers who would be required to enter such an environment where the airborne radioiodine concentration exceeds 25% of MPC. The actions proposed by the licensee can result in significant dose savings over alternative methods while still providing effective protection. This exemption would enable the licensee to use a protection factor for air-purifying radioiodine gas and vapor respirators in estimating worker exposures from radioiodine gases and vapors. The licensee has provided usage restrictions and controls which can ensure an effective radioiodine protection program. The propsoed criteria and test methods for verifying the effectiveness and quality of GMR-I canisters are consistent with the staff's criteria. The licensee's proposed exemption, with the controls and limitations, meets the staff's positions in the Standard Review Plan, NUREG/CR-3403, and Regulatory Guide 8.8, and is acceptable. The actions proposed by the licensee are consistent with the requirements of 10 CFR 20.103(e), and form an acceptable basis to authorize the granting of an exemption in accordance with the provisions of 10 CFR 20.103(e).

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.501, an exemption is authorized by law and will not result in undue hazard to life or property. The Commission hereby grants an exemption from the requirements of footnote d-2(c) of Appendix A of 10 CFR Part 20 to permit the use of Mine Safety Applicances (MSA) GMR-I canisters at the Grand Gulf Nuclear Station, Unit 1.

It is further determined that the exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Finding of No Significant Impact prepared pursuant to 10 CFR 51.1 and 51.30 through 51.32, and published on November 18, 1987 (52 FR 44239), it was concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statement need not be prepared.

For further details with respect to this action, see the licensee's requests dated June 29, 1987, as supplemented August 21, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 19th day of November 1987.

[FR Doc. 87-27448 Filed 11-27-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-16144; 812-6783]

David Lerner Associates, Inc., et al.; Application

November 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: David Lerner Associates, Inc. ("Lerner Associates"), Spirit of America Management Corp. ("Spirit Management"), and David Lerner ("Lerner").

Relevant 1940 Act Sections: Exemption requested under section 9(c) from section 9(a).

Summary of Application: Applicants seek an order to permit (i) Lerner Associates to serve as the principal underwriter of the shares of Spirit of America Government Fund, Inc. ("Fund"), (ii) Spirit Management to serve as the Fund's investment adviser, and (iii) Lerner to serve as a director and officer of the Fund.

FILING DATE: The application was filed on July 2, 1987, and amended on August 14, October 2, and October 22, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 18, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 466 Jericho Turnpike, Syosset, New York 11791.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations: 1. Lerner Associates, incorporated in 1975, is registered as a broker-dealer under the Securities Exchange Act of 1934, is a member of the National Association of Securities Dealers ("NASD"), and specializes in servicing retail customers with respect to investment products such as municipal and United States government securities and mutual fund shares. Its staff totals approximately 288, of which 204 are registered representatives. Spirit Management, a corporation organized in July 1985, is registered as an investment adviser under the Investment Advisers Act of 1940, but currently has no advisory clients. Lerner is the president, a director and sole shareholder of Lerner Associates, and is a director, officer and sole shareholder of Spirit Management.

2. The Fund, an open-end, diversified, management investment company organized under the laws of the State of Maryland, filed an initial registration statement under the Securities Act of 1933 ("1933 Act") (File No. 33-1649) and the 1940 Act on November 19, 1985 (File No. 811-4493). The registration statement was amended on January 13, 1987, but has not been declared effective and no public offering of the Fund's shares has commenced. The Fund will invest in United States Treasury securities and in securities issued by agencies of, or instrumentalities established or sponsored by, the United States Government.

3. This application arises from a consent judgment ("Judgment") which was entered in Supreme Court of the State of New York on November 13, 1986, against Lerner Associates, Lerner and nine account executives employed by Lerner Associates in connection with the settlement of a civil complaint ("Complaint") filed simultaneously by the New York State Attorney General ("NYAG"), *The State of New York v. David Lerner Associates, Inc.*, Civil

Action No. 84-46492 (N.Y. Sup. Ct.). The Complaint alleged that, in 1981 and 1982, the nine account executives, acting independently, misrepresented and failed to disclose to certain of their customers material information about the Washington Public Power Supply System ("WPPSS") in connection with the purchase and sale of WPPSS Projects 4 and 5 revenue bonds ("WPPSS Bonds"), and the information was readily available to such account executives and they either knew or should have known of it. The Complaint further alleged that Lerner Associates and Lerner failed to supervise adequately the account executives with respect to the sale of WPPSS Bonds to their customers.

4. Without admitting any of the allegations in the Complaint and specifically denying them for purposes of any other forum, the defendants entered into the Judgment and agreed to make certain disclosure to their customers in connection with the sales of municipal securities. Lerner Associates further agreed to institute certain supervisory policies and procedures with respect to municipal securities transactions specifically designed to prevent recurrences of the deficiencies noted in the Complaint, and also agreed to reimburse the State of New York for its costs in the amount of $50,000.

5. Applicants filed the application for an order under section 9(c) of the 1940 Act permanently exempting them with respect to the Judgment to permit Lerner Associates to serve as the principal underwriter of the shares of the Fund, Spirit Management to serve as the Fund's investment adviser, and Lerner to serve as a director and officer of the Fund.

Applicants' Legal Analysis and Conclusions: 1. Section 9(a)(2) of the 1940 Act, as is relevant here, automatically disqualifies any person from serving or acting in the capacity of an officer, director, investment adviser or principal underwriter of any registered investment company, if such person has been enjoined from engaging in or continuing any conduct or practice in connection with its activities as a broker, dealer or municipal securities dealer, or in connection with the purchase or sale of a municipal security. Section 9(a)(3) further disqualifies a company from serving or acting in any of the above enumerated capacities if the company is "affiliated," within the meaning of section 2(a)(3) of the 1940 Act, with a person who is disqualified under section 9(a)(2).

2. Section 9(c) of the 1940 Act provides that the Commission shall grant an application for relief from section 9(a) where it is established that the prohibitions of subsection (a), as applied to the applicant, are unduly or disproportionately severe or that the applicant's conduct has been such as not to make it against the public interest or protection of investors to grant the application.

3. Absent an exemption from section 9(a), the Judgment prevents: (a) Lerner from serving as an officer and director of the Fund because he is a person who has been enjoined from engaging in securities-related conduct or practice; (b) Spirit Management from serving as the Fund's investment adviser because it is a company affiliated with Lerner who has been enjoined from engaging in a securities-related conduct or practice; and (c) Lerner Associates from serving as the Fund's principal underwriter because it is a company enjoined from engaging in securities-related conduct or practice, and because it is a company affiliated with Lerner and six of the nine account executives who have been enjoined from engaging in securities-related conduct or practice.

4. Applicants submit that the prohibitions of section 9(a) of the 1940 Act are unduly and disproportionately severe as applied to them and that their conduct has been such as not to make it against the public interest or protection of investors to grant the requested exemption. In support of this contention, Applicants make the following arguments:

a. The defendants did not admit (and denied in any other forum) the allegations in the Complaint. Nevertheless, they agreed to entry of the Judgment and to make certain disclosures, and Lerner Associates further agreed to implement certain supervisory policies and procedures with respect to the sale of municipal securities specifically designed to prevent recurrences of the alleged deficiences by its sales personnel;

b. The Complaint involved the purchase and sale of municipal bonds in the secondary market. The sale of Fund shares, like other mutual fund shares, and in contrast to sales of municipal securities, will be highly regulated, and potential investors will receive a prospectus of the Fund which discloses the Fund's investment risks and will be periodically updated;

c. The conduct alleged in the Complaint did not pertain to the Applicants' proposed mutual fund distribution and management activities with the Fund;

d. Although six of the nine account executives named in the Complaint are still employed by Lerner Associates, they will have no involvement with Spirit Management, and their only involvement with the Fund will be in selling Fund shares, as salesmen of Lerner Associates, to investors who will receive a Fund prospectus in a manner designed to ensure proper delivery thereof;

e. Since the sale of mutual funds is a significant part of Lerner Associates' business, the account executives are accustomed to selling this type of product;

f. A great deal of time, effort and money have been expended to establish the Fund and Spirit Management. If this application is not granted, it is likely that shares of the Fund never will be sold, Spirit Management will be dissolved and, thus, Applicants will suffer irreparable harm;

g. Lerner is assisted by three other officers in supervising Lerner Associates' securities business. Spirit Management has three officers in addition to Lerner who will take part in advising the Fund. The Fund has four directors in addition to Lerner, of which three are completely independent of Applicants;

h. The default of the WPPS Bonds was virtually unprecedented, and the allegations contained in the Complaint against the nine Lerner Associates salesman are similar to allegations made against numerous other parties in many other forums;

i. Other than the matters referred to in the application, Applicants have not been subject to any investment-related federal or state enforcement or regulatory disciplinary proceeding, either judicial or administrative; and

j. In making their application, Applicants acknowledge, understand and agree that the Commission's issuance of the order requested by the application shall not prejudice or limit the Commission's right in any manner with respect to any investigation, enforcement action, or proceeding under section 9(b) of the 1940 Act, based, in whole or part, upon conduct other than that giving rise to the application.

Applicants' Conditions: Applicants have agreed that granting of the order requested under section 9(c) of the 1940 Act premanently exempting them from the provisions of section 9(a) may be conditioned on the following:

1. The six account executives named in the Complaint will have no involvement of any kind with the Fund or any other investment company other than being involved with the sale of investment company shares in their capacities as salesmen of Lerner Associates.

2. Appropriate disclosure of the terms of the Judgment and certain NASD proceedings referred to in the application will be made in the Fund's 1933 Act registration statement.

Based upon the foregoing, Applicants submit that their application for a permanent exemption under section 9(c) of the 1940 Act should be granted.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-27411 Filed 11-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16142; 811-4594]

Dolphin Equity Fund, Inc.; Application

November 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: Dolphin Equity Fund, Inc.

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an invesment company.

Filing Date: The application on Form N-8F was filed September 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Suite 500, 1315 Peachtree Street, NE., Atlanta, GA 30309.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 321-3282 (in Maryland (301) 258-4300).

Applicant's Representations: 1. Applicant is organized as a Georgia corporation and is registered as an open-end, diversified, management investment company under the 1940 Act.

2. On July 16, 1987, the Applicant's Board of Directors and sole shareholder approved a resolution ordering the liquidation and dissolution of the Applicant. On August 12, 1987, Applicant filed a Statement of Intent to Dissolve with the Secretary of State of Georgia and is currently in the process of dissolution.

3. On September 4, 1987, a distribution of $111,982.14, representing 104.123 shares, was made to the sole shareholder of Applicant, net of any and all liabilities which had been accrued.

4. Within the last 18 months, Applicant has not transferred any of its assets to a separate trust, the beneficiaries of which were or are security-holders of Applicant. In addition, Applicant is not a party to any litigation or administrative proceeding, and is not now engaged and does not propose to engage in any business activities other than those necessary for winding up its affairs. Legal fees and related out-of-pocket expenses incurred in connection with the liquidation will be borne by Applicant's investment adviser.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-27412 Filed 11-27-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #6573]

New York; Declaration of Disaster Loan Area

The City of New Rochelle, New York, constitutes an Economic Injury Disaster Loan Area due to damages caused by a fire in the 264th block of East Main Street, which occurred on October 16, 1987. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on August 23, 1988, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410

or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002).

Date: November 23, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-27370 Filed 11-27-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3295-1]

Environmental Impact Statement on Protocol to the Vienna Convention for the Protection of the Ozone Layer

ACTION: Revised notice of intent.

SUMMARY: The State Department and the Environmental Protection Agency are issuing this notice to advise the public that we are revising the August 5, 1987 notice of intent to prepare a draft and final environmental impact statement (EIS) on a possible protocol to the Vienna Convention for the Protection of the Ozone Layer. Instead, we will prepare one statement, known as a legislation EIS. This change has occurred because the protocol will be handled as a treaty, and will be submitted to the U.S. Senate for its advice and consent to ratification. According to the Council on Environmental Quality's regulation at 40 CFR 1508.17 implementing the National Environmental Policy Act (NEPA) and the State Department's NEPA regulation at 22 CFR 161.5, preparation of a legislative EIS is required for a treaty.

FOR FURTHER INFORMATION CONTACT: Stephen Seidel at (202) 382-2787, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, PM-221, or Suzanne Butcher at (202) 647-9312, U.S. Department of State, 2201 C Street NW., Washington, DC 20520.

SUPPLEMENTARY INFORMATION: On August 5, 1987, the State Department and the Environmental Protection Agency (EPA) published a notice in the **Federal Register** updating an August 1, 1984 notice of intent to prepare an environmental impact statement (EIS) on a possible protocol to the Vienna Convention for the Protection of the Ozone Layer. The protocol was being negotiated under the auspices of the

United Nations Environment Programme (UNEP). On September 16, 1987, negotiations culminated in the adoption of the "Montreal Protocol on Substances that Deplete the Ozone Layer" (Protocol).

The Protocol calls for a phased-in 50 percent reduction from 1986 levels of annual consumption of chlorofluorocarbons (CFCs) 11, 12, 113, 114, and 115; and a freeze of the annual consumption of Halons 211, 1301 and 2402 at 1986 levels. The Protocol also call for limits on the production of these CFCs and Halons. These control provisions will be subject to periodic assessments based on scientific, environmental, technical and economic information.

The Protocol will enter into force January 1, 1989, if it has been ratified, accepted or approved by at least eleven of the participating nations which represent two-thirds of the 1986 estimated global consumption of the controlled substances. Otherwise, it will take effect on the 90th day after these conditions have been satisfied.

The State Department has determined that the Protocol will be handled as a treaty and will be submitted by the President to the Senate for its advice and consent to ratification. The State Department's transmittal of the Protocol to the President of the United States with a recommendation that it be submitted to the Senate for its advice and consent is the major Federal action for which this EIS is being prepared.

The Council on Environmental Quality's (CEQ) NEPA regulation at 40 CFR 1508.17 and the State Department's NEPA implementing regulation at 22 CFR 161.5 require the preparation of legislative EISs on treaties for which the Senate's advice and consent will be sought. The State Department and EPA, in consultatioin with CEQ, have determined that preparation of a legislative EIS is required in this case. In the NEPA review process for a legislative EIS (40 CFR 1506.8), only one document is prepared, rather than a draft and final EIS. This document constitutes the detailed statement required by the NEPA.

Upon its completion, the legislative EIS will be submitted by the State Department to the Senate. As with a draft EIS, the public will have an opportunity to review and comment on the legislative EIS. A notice of public availability of the legislative EIS will be published in the **Federal Register** when completed. Responses to comments will be prepared jointly by the State Department and EPA and will be submitted to the Senate.

William A. Nitze,

Deputy Assistant Secretary of Environment, Health and Natural Resources, U.S. Department of State.

Date: November 25, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency.

Date: November 23, 1987.

[FR Doc. 87-27514 Filed 11-27-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Snohomish County Airport, Everett, WA; Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Snohomish County Airport (PAE) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for PAE under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before May 1, 1988.

DATES: The effective date of the FAA's determination on the PAE noise exposure maps and the start of its review of the associated noise compatibility program is November 3, 1987. The public comment period ends January 3, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Highway S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for PAE are in compliance with applicable requirements of Part 150, effective November 3, 1987. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before May 1, 1988. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport. An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

PAE submitted to the FAA, noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by PAE. The specific maps under consideration are Exhibits 3-2 and 5-6 in the submission. The FAA has determined that these maps for PAE are in compliance with applicable requirements. This determination is effective on November 3, 1987. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific

properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for PAE, also effective on November 3, 1987. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before May 1, 1988.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, paragraph 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW., Room 615, Washington, DC.

Federal Aviation Administration, Airports Division, ANM-600, 17900 Pacific Highway S., C-68966, Seattle, Washington 98168, Snohomish County Airport, Everett, Washington.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, November 3, 1987.

Edward G. Tatum,

Manager, Airports Division.

[FR Doc. 87-27365 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP-87-08; Notice 2]

Grant of Petition for Determination of Inconsequential Noncompliance; GTE Products Corp.

This notice grants the petition by GTE Product Corporation of Danvers, MA, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, "Lamps, Reflective Devices and Associated Equipment." The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** July 17, 1987, and an opportunity offered for comment (52 FR 27102).

Paragraph S4.1.1.38(b) of Standard No. 108 requires that the base of each type HB3 and HB4 standardized replaceable light source shall be marked by its manufacturer with its HB type designation. GTE manufactured over 1 million replaceable bulbs from July 1986 until March 1987 for use in model year 1987 automobiles. These bulbs do not display the type designations HB3 and HB4, however, they do bear the American National Standards Institute (ANSI) designations 9005 and 9006.

GTE argued that the noncompliance is inconsequential as it relates to motor vehicle safety because:

"1. All production was shipped to vehicle manufacturers or their dealerships, or to professional service organizations, where exchanges under warranty are well understood.

2. The bulbs are differentiated by ANSI designations in wide use. Differences in base design of the two types of bulbs make incorrect usage impossible.

3. When GTE aftermarket material is distributed, it will list both the ANSI and the NHTSA nomenclature. In fact, one customer's owner instruction manual advises that replacements for original bulbs are marked with the pertinent ANSI numbers.

4. NHTSA's own rationale in rejecting suggestions for sole use of industry terminology foresaw possible customer confusion from a proliferation of bulb types varying in features but not in basic safety performance, e.g., using less power to achieve the same illumination performance. The agency thus insisted on the ability to group all performance-neutral variations under a common "HB" label, no matter what nomenclature industry assigned to the new products, 51 FR 16325, 16326, May 2, 1986. But no such proliferation has happened yet. We still are only dealing with the HB1/9004, HB3/9005 and HB4/9006. While GTE has no quarrel with the HB labeling requirement and intends to abide by it, GTE submits that there is no need for notice-and-remedy when the number of replaceable bulb types is small.

5. In fact, the experience thus far with the 9004, which is given an HB1 designation under the NHTSA rules but is not required to bear the dual marking, suggests that exemption here will not be of significant safety consequence.

One comment was received on the petition, from General Motors which supported it. GM reported no difficulties in the identification and use of the light sources in either its lamp or vehicle assembly plants, and opined that "the designations HB3 and HB4 serve no safety function, but only as equivalent identification."

Light source Type designations are important when headlamps are assembled, and when the light source is replaced. Because of differences in base design between HB3 and HB4 it is apparent that headlamps with these bulbs will be properly assembled. Each bulb bears its appropriate ANSI designation, recognizable and understood by sales outlets for replaceable light sources, and there should be minimal confusion when one of these light sources must be replaced. Accordingly, in consideration of the foregoing, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: November 20, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-27356 Filed 11-27-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 20, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0126
Form Number: 1120F
Type of Review: Resubmission
Title: U.S. Income Tax Return of a Foreign Corporation

Description: Form 1120F is used by foreign corporations to compute their tax liability. Foreign corporations that do not have a business in the U.S. generally complete Part I. Foreign corporations that have a business in the U.S. generally complete Part II. Foreign corporations that have a branch in the U.S. complete Part III. The IRS uses Form 1120F to determine if the correct amount of income, deductions, and tax have been reported.

Respondents: Businesses or other for-profit
Estimated Burden: 251,848 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-27451 Filed 11-27-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 20, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0177
Form Number: ATF F 5100.29(4440)
Type of Review: Extension
Title: Catering Locations

Description: ATF F 5100.29(4440) is used by caterers to register all changes of locations within a previous 30 day period. This is to identify where liquor was sold by the drink at locations other than what was listed on the special tax stamp issued to the caterer. The form is filed in duplicate by the caterer, along with an amended ATF 5630.5.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 250 hours
Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-27452 Filed 11-27-87; 8:45 am]

BILLING CODE 4810-25-M

U.S. and Singapore; Negotiation of Income Tax Treaty

The Treasury Department today announced that negotiations of a proposed income tax treaty between the United States and Singapore are scheduled to take place in Singapore during the week of December 14-18, 1987.

There is not now an income tax treaty in effect between the United States and Singapore. The negotiations will be based on the model draft texts published by the United States, the Organization for Economic Development and Cooperation and the United Nations. They will also take into account the U.S. Tax Reform Act of 1986 and recent treaties concluded by each country. The issues to be discussed include the taxation of income from business, investment, and employment derived in one country by residents of the other, provisions to ensure nondiscrimination and the avoidance of double taxation, and provisions for administrative cooperation between the tax authorities of the two countries.

Interested persons are invited to send written comments concerning the forthcoming negotiations to Leonard Terr, International Tax Counsel, U.S. Treasury, Room 3064, Washington, DC 20220.

Dated: November 24, 1987.

O. Donaldson Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 87-27453 Filed 11-27-87; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 6% for calendar year 1988.

DATES: The rate will be in effect for the period beginning on January 1, 1988 and ending on December 31, 1988.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Division (Agency Programs Branch), Financial Management Service, Department of the Treasury, 401 14th Street, SW., Liberty Center, 5th Floor, Washington, DC 20227 (Telephone: 202/287-0745).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal cash management systems and is based on investment rates set for

purposes of Pub. L. 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for calendar year 1988 reflects the average investment rates for the 12-month period ended September 30, 1987.

Russell D. Morris,

Assistant Commissioner, Federal Finance.

Date: October 29, 1987.

[FR Doc. 87–27423 Filed 11–27–87; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Human Figure in Early Greek Art

Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Human Figure in Early Greek Art" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about January 31, 1988, to on or about June 12, 1988; at The Nelson-Atkins Museum of Art in Kansas City, Missouri, beginning on or about July 16, 1988, to on or about October 9, 1988; at the Los Angeles County Museum of Art in Los Angeles, California, beginning on or about November 10, 1988, to on or about January 15, 1989; at the Art Institute of Chicago in Chicago, Illinois, beginning on or about February 18, 1989, to on or about May 7, 1989; at the Boston Museum of Fine Arts in Boston, Massachusetts, beginning on or about June 7, 1989, to on or about September 3, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Date: November 24, 1987.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 87–27399 Filed 11–27–87; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202–485–7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held December 9, 1987, in Room 600, 301 4th Street, SW., Washington, DC from 11:00 a.m. to 12:30 noon.

The Commission will meet with VOA Director Richard Carlson and members of his staff to discuss Voice of America programs.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: November 23, 1987.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 87–27400 Filed 11–27–87; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by December 30, 1987.

Dated: November 23, 1987.

By direction of the Administrator

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Revision

1. Department of Veterans Benefits
2. Student Beneficiary Report—REPS (Restored Entitlement Program for Survivors)
3. VA Form 21–8938
4. This information is used to verify a student beneficiary's school attendance and continued elgibility for REPS benefit payments.
5. On occasion
6. Individuals or households
7. 5,300 responses
8. 1,767 hours
9. Not applicable

[FR Doc. 87–27351 Filed 11–27–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 229
Monday, November 30, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:30 a.m., Wednesday, December 2, 1987, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 25, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-27559 Filed 11-25-87; 2:31 pm]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, December 2, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance betweeen 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to index the low reserve tranche for transactions accounts, the reserve requirement exemption amount, and the reporting cutoff level for 1988.

Discussion Agenda

2. Publication for comment of proposals to implement the Expedited Funds Availability Act.
3. Proposed 1988 Federal Reserve Board budget.
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: November 25, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-27498 Filed 11-25-87; 11:05 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., December 4, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314. 6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27490 Filed 11-25-87; 10:56 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., December 4, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27491 Filed 11-25-87; 10:56 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., December 11, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314. 6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27492 Filed 11-25-87; 10:56 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., December 11, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27493 Filed 11-25-87; 10:56 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., December 18, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27494 Filed 11-25-87; 10:56 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., December 18, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–27495 Filed 11–25–87; 10:56 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., December 24, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–27496 Filed 11–25–87; 10:56 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., December 24, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–27497 Filed 11–25–87; 10:56 am]

BILLING CODE 6351–01–M

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From November 24th Open Meeting

November 24, 1987.

The following item has been deleted from the list of agenda items scheduled for consideration at the November 24, 1987, Open Meeting and previously listed in the Commission's Notice of November 17, 1987. This item was deleted at the request of the Chairman's Office.

Agenda, Item No., and Subject

Mass Media—2—Title: AM Stereophonic Broadcasting. Summary: The Commission will consider three petitions for rule making and two reports issued by the National Telecommunications and Information Administration concerning AM stereophonic broadcasting.

Additional information concerning this item may be obtained from Sarah Lawrence, Office of Public Affairs, telephone number (202) 632–5050.

Issued: November 24, 1987.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–27516 Filed 11–25–87; 12:59 pm]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsections (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, November 24, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,128
Denver Consolidated Office, Denver, Colorado

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)); and that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: November 25, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87–27528 Filed 11–25–87; 2:12 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, November 24, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the Corporation's assistance agreement with an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).

Dated: November 25, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87–27529 Filed 11–25–87; 2:12 pm]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, December 1, 1987.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Budget review session.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–27517 Filed 11–25–87; 12:53 PM]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 44671 November 20, 1987].

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, November 16, 1987.

CHANGES IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting on Thursday, November 19, 1987, at 10:00 a.m.:

Litigation matter.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

November 20, 1987.

[FR Doc. 87–27518 Filed 11–25–87; 12:57 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 30, 1987:

A closed meeting will be held on Tuesday, December 1, 1987, at 10:30 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 1, 1987, at 10:30 a.m., will be:

Formal orders of investigation.
Settlement of injunctive action.
Institution of injunctive action.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272–2468.

Jonathan G. Katz,

Secretary.

November 23, 1987.

[FR Doc. 87–27519 Filed 11–25–87; 12:57 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 229
Monday, November 30, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 87N-0317]

Antibiotic Drugs; Cefuroxime Axetil Tablets

Correction

In rule document 87-25584 beginning on page 42431 in the issue of Thursday, November 5, 1987, make the following corrections:

§ 436.215 [Corrected]

1. On page 42432, in the first column, in § 436.215(c)(9)(i), in the third line, "weight" should read "weigh".

§ 442.19 [Corrected]

2. On the same page, in the third column, in § 442.19(b)(1)(i)(A), in the third line, "ammonium" should read "of ammonium".

3. On the same page, in the same column, in § 442.19(b)(1)(i)(D), in the 10th line "methoxy-" was misspelled, and in the 11th line "iminoacetamido" was misspelled.

4. On page 42433, in the first column, in § 442.19(b)(1)(iv)(A), in the formula, the bottom line should read "$R_s \times C_u \times (100—m)$"

§ 442.119 [Corrected]

5. On page 42434, in the first column, in § 442.119(b)(1)(iii), in the formula, the top line should read "$R_u \times P_s \times d$".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. N-87-1746; FR-2389]

Supplemental Assistance for Facilities to Assist the Homeless; Program Guidelines and Notice of Funds Availability

Correction

In notice document 87-24242 beginning on page 38880 in the issue of Monday, October 19, 1987, make the following corrections:

1. On page 38881, in the first column, in paragraph (a), in the ninth line, "positions" should read "provisions".

2. On page 38882, in the third column, in paragraph (3), in the fourth line, "The term does not" should begin a new line.

3. On page 38892, in the first column, in paragraph (9), in the fourth line, after "person" insert "or".

4. On the same page, in the same column, in the same paragraph, in the sixth line, after "individual," insert "family,".

5. On page 38898, in the first column, in paragraph (4), in the first line, after "force" insert "or".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 208

Sale of Federal Royalty Oil

Correction

In rule document 87-25103 beginning on page 41908 in the issue of Friday, October 30, 1987, make the following correction:

§ 208.2 [Corrected]

In § 208.2, on page 41914, in the second column, in the 13th line, "eligible" should read "ineligible".

BILLING CODE 1505-01-D

federal register

Monday
November 30, 1987

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Electrical Safety-Related Work Practices; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket S-016]

Electrical Safety-Related Work Practices

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing a new standard on electrical safety-related work practices for general industry. This performance-oriented proposal would complement the existing electrical installation standards. The proposal includes requirements for work performed on or near exposed energized and deenergized parts of electrical equipment; use of electrical protective equipment; and the safe use of electric equipment. Compliance with these safe work practices will reduce the number of electrical accidents resulting from unsafe work practices by employees.

OSHA is also proposing amendments to the general industry standards which would: (1) Change existing regulations referring to the 1971 National Electrical Code so that they would refer instead to OSHA's electrical standards; (2) remove existing electrical work-practice requirements from other parts of the general industry standards so that all general electrical safety-related work practices would be covered in the electrical safety standards; and (3) remove an existing provision relating to construction from the general industry electrical safety standards. These changes would promote uniformity and reduce redundancy among the general industry standards.

DATES: Written comments and requests for a hearing on these proposed rules must be postmarked by February 29, 1988.

ADDRESS: All comments, objections and hearing requests should be sent in quadruplicate to Docket Officer; Docket S-110, Rm. N3670; OSHA, U.S. Department of Labor; 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster; U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637; 200 Constitution Avenue, NW., Washington, DC 20210 (202-523-8148).

SUPPLEMENTARY INFORMATION:

I. Background

A. Electric Shock

It is well known that the human body will conduct electricity, and that if direct contact is made with an electrically energized part while a similar contact is made simultaneously with another conductive surface which is maintained at a different electrical potential, a current will flow, entering the body at one contact point, traversing the body and then exiting at the other contact point, usually the ground. Each year many workers suffer pain, injuries, and death from such electric shocks. OSHA estimates that there are more than 300 electrical fatalities in general industry each year.

The effects that electric shock will have on an individual will depend upon the type of circuit, its voltage, resistance, and amperage, the pathway through the body, and the duration of the contact. For example, electric shocks produced by alternating currents of powerline frequency (normally 60 Hertz) passing through the body of an average adult from hand to foot for 1 second can cause various effects, starting from a condition of being barely perceptible at 1 milliampere to involuntary muscular control from 9 to 25 milliamperes. The passage of still higher currents can produce ventricular fibrillation of the heart (cessation of rhythmic pumping action) from 75 milliamperes to 4 amperes, and finally immediate cardiac arrest at over 4 amperes. Nearly instantaneous fatalities from electrical shock can result from either direct paralysis of the respiratory system (at 20 milliamperes or more), failure of the heart to pump due to ventricular fibrillation (at 75 milliamperes or more), or immediate and complete heart stoppage (at 4 amperes or more). Even if the shocking current does not pass through vital organs or nerve centers, severe injuries such as deep internal burns can still occur. In some cases, injuries caused by electric shock can be a contributory cause of delayed fatalities.

Burns suffered in electrical accidents are also of great concern. These burns may be of three basic types: electrical burns, arc burns and thermal contact burns. Electrical burns are the result of the electric current flowing in the tissues and may be either skin deep or may affect deeper layers (muscles, bones, etc.) or both. Tissue damage is caused by the heat generated from the current flow; if the energy delivered by the electric shock is high, the body cannot dissipate the heat and the tissue is burned. Typically, such electrical burns are slow to heal. Arc burns, on the other hand, are the result of high temperatures produced by electric arcs or by explosions in close proximity to the body. These burns are similar to burns and blisters produced by any high temperature source. Finally, thermal contact burns are those normally experienced from the skin's contacting hot surfaces of overheated electrical conductors, conduits, or other energized equipment. All types of burns may be produced simultaneously.

Electric shock currents, even at levels as low as three milliamperes, can also cause injuries of an indirect or secondary nature. In this case, the involuntary muscular reaction from the electrical shock can cause bruises, bone fractures, and even death resulting from collisions or falls.

B. Hazards Associated With Electricity

Most electrical systems use the earth to establish an electrical voltage reference system with respect to ground. This is done by connecting a portion of the circuit to ground. Since these systems use conductors which have voltages to ground, a shock hazard exists for persons who are in electrical contact with the earth and are exposed to the conductors. If a person comes in contact with an ungrounded conductor while that person is in contact with the ground, he or she becomes part of the circuit and current passes through his or her body.

In addition to the shock hazard, electricity poses other hazards to employees. For example, when a short circuit occurs or current flow is interrupted, hazards are created from the resultant arcs. If the current involved is great enough, these arcs can cause injury or can start a fire. Fires can also be created by overheating equipment or by conductors carrying too much current. Extremely high-energy arcs can damage equipment causing fragmented metal to fly in all directions. In atmospheres which contain explosive gases or vapors or combustible dusts, even low-energy arcs can cause violent explosions.

C. Nature of Electrical Accidents

Electrical accidents, when initially studied, often appear to be caused by circumstances which are varied and peculiar to the particular incidents involved. However, further consideration usually reveals the underlying cause to be a combination of three possible factors; i.e., work involving unsafe equipment and installations, workplaces made unsafe by the environment, and unsafe work performance (unsafe acts).

For purposes of convenience, the first and second accident causing situations are sometimes combined and simply referred to as unsafe conditions. Thus, electrical accidents can be generally considered as being caused by unsafe conditions, unsafe acts, or, in what is usually the case, combinations of the two. It should also be noted that inadequate maintenance can cause equipment or installations which were originally considered safe to deteriorate, resulting in an unsafe condition.

Some unsafe electrical equipment and installations can be identified, for example, by the presence of faulty insulation, improper grounding, loose connections, defective parts, ground faults in equipment or unguarded live parts. The environment can also be a contributory factor to electrical accidents in a number of ways. For example, environments containing flammable vapors, liquids or gases, areas containing corrosive atmospheres and wet and damp locations are some unsafe environments affecting electrical safety. Finally, some unsafe acts can be recognized as, typically, the failure to deenergize electrical equipment when it is being repaired or inspected, the intentional use of obviously defective and unsafe tools, or the use of tools or equipment too close to energized parts.

D. Protective Measures

There are various general ways of protecting employees from the hazards of electric shock, including insulation and guarding of live parts. Insulation provides an electrical barrier to the flow of current. To be effective, the insulation must be appropriate for the voltage, and the insulating material must be undamaged, clean, and dry. Guarding prevents the employee from coming too close to energized parts. It can be in the form of a physical barricade, or it can be provided by installing the live parts out of reach from the working surface. (This technique is known as "guarding by location.")

Grounding is another method of protecting employees from electric shock; however, it is normally a secondary protective measure. To keep guards or enclosures at a common potential with earth, they are connected, by means of a grounding conductor, to ground. In addition, grounding also provides a path of low impedance and of ample capacity back to the source to pass enough current to operate the overcurrent devices in the circuit. If a live part accidentially comes in contact with a grounded enclosure, any current flow is directed back to earth, and the circuit protective devices (e.g., fuses and circuit breakers) can interrupt the circuit.

These protective measures help ensure the safe installation of electric equipment and are prescribed by the regulations presently contained in Subpart S. Addressing common unsafe conditions, these rules cover such safety considerations as guarding and insulation of live parts, grounding of equipment enclosures, and protection of circuits from overcurrent.

However, even though equipment may be in compliance with the installation requirements of Subpart S, the employee is still exposed to electrical hazards. An unsafe work practice can increase the gravity of the hazards, while under normal conditions the hazards would be controlled and would pose no serious risk to the worker. For example, an employee carrying a ladder could approach exposed live parts guarded by installation beyond normal reaching distance. The employee's bringing the ladder close to the live parts exposes the worker to hazards greater than those present under usual working conditions. When employees are working with electric equipment, they must use safe work practices. Such safety-related employee work practices include keeping a prescribed distance from exposed energized lines, avoiding the use of electric equipment when the employee or the equipment is wet, and locking-out and tagging equipment which is deenergized for maintenance.

Another important safety practice involves the use of electrical protective devices, such as rubber gloves and rubber mats for the purpose of insulation against live parts, or live-line tools for purposes of both insulation and manipulation of energized parts from a distance. However, to assure the protection of the employee, this equipment must be properly manufactured and maintained. Regular maintenance is an important consideration in order to keep this equipment for deteriorating into an unsafe condition.

E. Need for Proposed Regulation

The current electrical safety standards contained in Subpart S of Part 1910 provide employees protection from hazards posed by electrical installations. By requiring such protective measures as guarding of live parts and grounding of equipment enclosures, the current regulations make most types of electrical equipment reasonably safe under normal conditions.

However, even normally safe equipment can pose hazards under certain conditions. A few illustrations may help to underscore this point. To guard overhead power line from contact by the public, electric utility companies install the lines at heights which cannot be reached by persons standing on the ground. This protective measure serves its purpose well, until someone approaches a power line with a long ladder or a crane. Since the overhead power lines were not designed to provide complete protection under such circumstances, safe work practices (e.g., maintaining a safe distance) must be used to minimize the hazards involved.

Another common example of a normally safe installation posing hazards is equipment undergoing maintenance. Under normal operating conditions, live parts of equipment are required to be guarded from contact by employees. However, when the equipment must be disassembled for maintenance or repair, the normally enclosed electrical parts become exposed. Therefore, during maintenance, certain work practices must be used to prevent contact with the necessarily exposed parts while they are energized. Typical safety-related work practices used in such situations include equipment deenergizing, lockout and tagging procedures, and the use of personal protective equipment.

Electric equipment can also be used under circumstances that pose unexpected hazards. For example, using an ordinary portable electric drill, a worker can ignite flammable vapors from paint thinner being used nearby. The existing electrical safety standards contain provisions dealing with electrical installations in hazardous locations. However, they do not directly address the hazards involved with the use of electric equipment in areas in which hazardous concentrations of flammable gases or vapors may accumulate temporarily and infrequently. In such circumstances, safety-related work practices must be used to control the hazards involved. With respect to the electrical hazards, such practices could include the use of additional ventilation or the shutdown of electric equipment while hazardous quantities of the vapors are present.

As previously noted, the current electrical standards in Subpart S of the General Industry Standards cover electrical installations rather than work practices; the few safety-related work practice standards that do exist are distributed in other subparts of Part 1910. However, although unsafe work practices appear to be involved in most workplace electrocutions, OSHA has very few regulations addressing work practices necessary for electrical safety.

Unsafe work practices appeared to be a factor in over half of the electrocutions that were analyzed in OSHA's limited survey which is discussed in the next section of the preamble. Because of this, OSHA has concluded that undertaking rulemaking procedures to minimize these hazards is most appropriate.

Various national consensus standards address electrical safety-related work practices for particular types of equipment and operations. For example, American National Safety Code for Crawler, Locomotive, and Truck Cranes, ANSI B30.5, requires a minimum clearance of 10 feet for cranes operated near overhead power lines. Similarly, ANSI Z49.1, Safety in Welding and Cutting, contains electrical work practice requirements for the use of welders. OSHA has previously adopted these two consensus standards (in §§ 1910.180 and 1910.252, respectively); and, in some part, they have helped reduce electrical accidents. However, these "specialized" standards are limited in their areas of concern and do not address safe electrical work practices generally. Recently, though, the National Fire Protection Association recognized the need for a general electrical safety-related work practice standard by adopting Part II of NFPA 70E, Electrical Safety Requirements for Employee Workplaces.

Based on the considerable number of electrocutions occurring in situations for which no OSHA safety standards exist, OSHA has determined that a significant risk of death or serious injury exists (even in workplaces in compliance with existing OSHA standards), and the Agency has decided that a comprehensive electrical safety-related work practice standard is necessary for the protection of employees. Toward this end, the Agency has evaluated Part II of NFPA 70E and has determined that that national consensus standard is appropriate for OSHA to use as a basis for its proposed rule.

F. Accident Patterns

A survey of OSHA preliminary fatality/catastrophe event reports (Form OSHA-36) was undertaken to observe trends and patterns relative to causes of occupational electrocutions. These forms covered the period from January 1977 to June 1978. However, for various reasons, the OSHA fatality reports did not record all occupational electrocutions occurring in this period. For example, despite reporting requirements, some fatalities are simply never reported to OSHA. There is also evidence that, in the past, some electrocutions have been mistakenly identified as heart attacks. Presumably, this could have occurred during the period in question. Additionally, in this survey, the reporting of fatalities from states with their own approved OSHA programs is incomplete because the reports were not required to be submitted to the Federal OSHA. In fact, only two fatalities from such states are included. Despite this under-reporting, the available fatality information indicates that there is a serious problem.

In reviewing the forms, OSHA divided them into industry groups, as given in Table 1.

The Agency is limiting this proposed rulemaking to the prevention of accidents in general industry and maritime because to include other industrial sectors (such as construction) would seriously impede the rulemaking process. Inclusion of other industries in the proposal would require the Agency to consider many possible diverse situations requiring safety-related work practices that are likely to be germane only to these industries. The construction industry, for example, is an extensive user of temporary wiring, which is frequently moved and is often used under a wide range of environmental conditions. Such situations often affect the type of electrical safety-related work practices recommended for use. Additionally, under the Construction Safety Act and 29 CFR 1911.12, OSHA is required to consult with the Advisory Committee for Construction Safety and Health before issuing proposed rules affecting construction, to assure that the unique aspects of construction work are taken into consideration by the Agency. Furthermore, OSHA has recently revised its electrical standards for construction, Subpart K of Part 1926, which incorporate various electrical safety-related work practices in addition to installation safety requirements (51 FR 25294). Reasons for excluding work on electric power generation, transmission, and distribution installations are given in Section III of this preamble.

Following promulgation of the standard for electrical safety-related work practices for general industry, the Agency plans to consider the specific safety practices needed for the electric power industries.

Therefore, of particular interest at this time are the 111 fatalities occurring in general industry. A general breakdown of the accidents, by type, is given in Table 2. A review of the circumstances surrounding the accidents appears to indicate that an unsafe work practice, or a combination of unsafe work practices, was involved in over half of the electrical fatalities.

TABLE 1.—ELECTRICAL FATALITIES BY INDUSTRY

[January 1977 to June 1978]

Industry	Applicable standard (29 CFR)	No. of fatalities
General Industry [1].	Part 1910, Subpart S.	111
Construction [1].	Part 1926, Subpart K.	92
Telecommunications.	§ 1910.268	3
Power Transmission and Distribution.	Construction—Part 1926, Subpart V; Operation & Maintenance—Future Rulemaking.	40
Maritime	Parts 1915-1918 and Part 1910, Subpart S.	3

[1] Excluding Telecommunications and Power Transmission and Distribution.

TABLE 2.—ELECTRICAL FATALITIES BY UNSAFE EVENTS GENERAL INDUSTRY—JANUARY 1977 TO JUNE 1978

Category No.	Unsafe event	Number of fatalities
(i)	Use of equipment or material too close to exposed energized lines:—Total.	47
(a)	Vehicles (e.g., cranes and dump trucks).	26
(b)	Other mechanical equipment (e.g., augers and derricks).	7
(c)	Tools and materials [1] (e.g., ladders and tree limbs).	14
(ii)	Failure to use personal protective equipment.[1]	5
(iii)	Assuming an unsafe position.[1]	10
(iv)	Failure to deenergize (and lockout/tag) equipment.[1]	14
(v)	Use of visibly defective electric equipment.	3
(vi)	Blind reaching, drilling, digging, etc.	3
(vii)	No unsafe workpractice or not enough information to classify properly.	29
	Total	111

[1] These categories contain common elements and therefore overlap. For illustration, an accident (fictitious) occurs when a painter using a long-handled paint roller makes con-

tact with a power line. This accident could be placed into any of three categories, as follows: (1) He used a tool too close to the power line; (2) he did not use personal protective equipment so that he could safely work close to the line; or (3) he assumed a working position which allowed accidental contact with the line. In such cases, the fatality was placed in the category which seemed most appropriate. The example given would have been placed in the first category ((i)(c)).

Unsafe work practices may result from such factors as inattentiveness, lack of training, or poor supervision. From the aforementioned reports, it is not possible to determine the level of training involved, the employers' work rules, or other secondary factors which may have contributed to the accidents. Additionally, even though unsafe work practices were involved in many accidents, unsafe conditions were sometimes present at the same time. (For example, see category (v).) The data presented here are merely being used to demonstrate that unsafe work practices are significant contributors to electrical accidents and that they should be addressed in OSHA's regulations. It should be noted that, even with 100 percent compliance with OSHA's current General Industry Standards, most of the accidents (68 percent) given in categories (i) through (vi) in Table 2 would still have occurred.

Within each category in Table 2, the accidents are very similar in nature. From the fatality reports, OSHA can describe a typical accident for each of the first six categories as follows:

(i) *Use of equipment or material too close to exposed energized lines*—(a) *Vehicles.* Operating a truck-mounted boom, an employee of a local trucking company was unloading concrete blocks when the boom came in contact with a 7200-volt overhead power line.

(b) *Other mechanical equipment.* An oil well service rig loading and tubing machine was working over a 900-foot well. While lowering a pole, it came in contact with an overhead 7200-volt power line. The operator was burned and the helper, who was standing alongside the rig, received a serious electrical shock and later died.

(c) *Tools and materials.* An employee of a chemical manufacturing company was on a tank at a position about 18 feet above the ground. He was measuring the fluid level in the tank with a 20 foot long metal pole. When he removed it from the tank the pole came in contact with a 12,000-volt power line, which was about 16 feet above the tank.

(ii) *Failure to use personal protective equipment.* While trimming trees near power lines, an employee of a tree service company was electrocuted. His employer was cited for failure to provide personal protective equipment made necessary by the employee's close proximity to the lines.

(iii) *Assuming an unsafe position.* An electrician for a boiler shop was working on a bridge crane (doing repair work). He apparently gave instructions to turn on the power. When the line was energized, he was shocked, causing him to fall 30 feet to the cement floor.

(iv) *Failure to deenergize (and lockout/tag) equipment.* An employee of a steel pipe and tubing manufacturer was working on crane power lines. When he contacted one of the energized conductors, he was electrocuted.

(v) *Use of visibly defective electric equipment.* While using a vacuum pump to clear around a swimming pool, a life guard for a real estate management company was electrocuted. The employer was cited for not grounding the vacuum pump—it was equipped with a two-wire cord and was connected to the outlet by means of an extension cord with its grounding prong removed.

(vi) *Blind reaching, drilling, digging, etc.* An employee of a chemical manufacturing company climbed up on an industrial electrical outlet. While holding onto an I-beam, he reached inside a guard and accidentally contacted a 650-volt busbar.

G. Significant Risk

In order to promulgate safety regulations, OSHA must show that the hazard the Agency proposes to address presents a significant risk to employee safety. As part of the preliminary analysis for this electrical safety-related work practices proposal, OSHA has determined the population at risk, the industries and occupations presenting major risks, and the incidence and severity of the injuries attributable to the failure to establish safe work practices. Finally, in keeping with the purpose of safety standards to prevent accidental injuries and deaths, OSHA has estimated the number of accidents that would be prevented by the regulation.

Although nearly every worker in general industry is exposed to electrical hazards, some are at much greater risk than others. Employees at appreciably greater risk include, (a) those in industries that have the highest incidence rates of electrical accidents and (b) those in occupations considered high risk for electrical hazards. JACA Corporation, in their "Regulatory Assessment of the Impact of the Proposed Electrical Safety-Related Work Practices," characterized the frequency with which electrical accidents occur and tabulated the relative risk between industries. (This document is available for inspection and copying in the Docket Office.) Among industries covered by the proposal, the highest relative risks are encountered in the following industries: lumber and wood products; rubber and miscellaneous plastics products; stone, clay, and glass products; primary metal; and miscellaneous repair services. Industries with a relatively low risk are concentrated in the finance, insurance, and real estate industries. According to the JACA report and excluding jobs not addressed by the proposal, the highest electrical accident rates are faced by electricians and apprentices, stationary engineers, mechanics and repairmen, structural metal craftsmen and welders. Low rates are encountered by personnel in the sales and clerical fields.

OSHA has estimated that more than 1,500 injuries and over 100 fatalities (concentrated within a high risk group of about 4.8 million workers) could be prevented each year through compliance with the proposed safety-related work practices. (A detailed analysis of the benefits of the proposed standard and a description of the methodology used can be found in Chapter 5 of OSHA's preliminary regulatory analysis, which is available for inspection and copying in the Docket Office.)

The particular injuries that the proposed safe work practices will prevent include electric shocks, burns, and the indirect injuries that result when electric shocks occur. (Indirect injuries are typically bruises, bone fractures, and even deaths that occur when the victim falls due to the involuntary muscular reactions that follow electric shocks.) Although some injuries only involve minor shocks and burns, many victims suffer disabling effects, some are killed by electrocution, and still others die from the indirect injuries. Therefore, the frequency and seriousness of injuries to be prevented clearly demonstrate a significant risk which will be addressed by the proposed standard.

II. Development of Proposed Standard

A. Present Electrical Standards

In 1976, the National Fire Protection Association (NFPA) created the "70E Committee" to prepare a consensus standard for possible use by OSHA in developing a proposed revision of the Agency's electrical safety standards. The 70E Committee visualized a standard consisting of four major parts:

Part I—Installation Safety Requirements,
Part II—Safety-Related Work Practices,
Part III—Safety-Related Maintenance Requirements,

Part IV—Safety Requirements for Special Equipment.

The name given to this new document became NFPA 70E, "Electrical Safety Requirements for Employee Workplaces."

The NFPA 70E Committee derived Part I from the National Electrical Code (NEC). OSHA reviewed the 70E document, which the NFPA approved, and used it as the foundation for proposing a revision (44 FR 55274) to 29 CFR Part 1910, Subpart S—the electrical standards for General Industry. After a public comment period and an informal hearing, the revised Subpart S was published as a Final Rule in the **Federal Register** (46 FR 4034) on January 16, 1981. The standard covers the safe *installation* of electrical equipment.

While OSHA was revising its standards using NFPA 70E, Part I, the 70E Committee was completing its work on Part II.

After considering the views and recommendations of the experts on the committee and comments from the public, NFPA approved the 70E Committee's standard on electrical safety-related work practices. Thus, NFPA 70E, Part II, "Safety-Related Work Practices," become a national consensus standard.

B. Use of NFPA 70E, Part II, as a Base Standard

In the development of this proposal, OSHA evaluated NFPA's electrical safety-related work practice standard. In areas which overlapped other consensus standards not presently adopted by OSHA, the NFPA document was reviewed and was compared with those other standards with respect to consistency and with respect to effectiveness in providing employee safety. For example, the NFPA requirements on lockout of equipment were compared to ANSI Z244.1, Lockout/Tagout of Energy Sources, so that OSHA could determine what requirements could most effectively protect employees from electrical hazards. In this case, as in most others, the NFPA standard more directly addressed electrical hazards than did the ANSI document, although (in OSHA's view) NFPA 70E was sometimes overly detailed or too specification-oriented. In comparison to other national consensus standards, NFPA's electrical safety-related work practices appeared to be effective in providing employee safety and consistent with current industry practice.

OSHA also examined provisions of NFPA 70E which were comparable to existing OSHA regulations. For example, OSHA compared §1920.180(j), dealing with the operation of cranes near overhead lines, with similar requirements in the NFPA standard. As a result, OSHA discovered that, while the 70E committee referred to OSHA's regulations in § 1910.180(j) in providing for a 10-foot minimum clearance, they provided smaller clearance distances in NFPA 70E for other types of equipment used near overhead power lines. In this area, NFPA 70E seemed to be less effective in protecting employees. In most other areas, however, the 70E requirements were at least as protective as OSHA's.

Finally, OSHA evaluated whether the requirements of NFPA 70E, Part II, were directed towards the apparent causes of electrical accidents. In addition to the previously mentioned OSHA survey, the Agency also reviewed electrical accident data provided by California, Florida, and other States. For every requirement set forth in Part II of NFPA 70E, OSHA found injuries or fatalities which were directly relevant. For instance, the lockout/tagout requirements of Chapter 4 were found to relate specifically to accidents in category (iv) presented previously in Table 2. However, it was not always possible to relate every specification in the 70E provisions on lockout of equipment to a particular causative factor presented in the accident descriptions.

OSHA has thoroughly reviewed NFPA's consensus standard on Electrical Safety-Related Work Practices and has determined that it is an appropriate document on which to base a proposed rule. Although the format and outline of the NFPA standard are not entirely suitable, the basic requirements are generally valid and relate well to causes of electrical accidents. Where necessary, OSHA has reorganized and edited the national consensus standard to fit the Agency's regulatory needs. For the most part, however, the proposed standard contains the same requirements as Part II of NFPA 70E. A performance-oriented approach addressing the causes of these accidents is thus maintained. As a consequence, the methods of compliance remain flexible.

III. Summary and Explanation of Proposed Standard

This section discusses the important elements of the proposal and explains any differences between it and the source document, NFPA 70E, Part II.

(1) *§ 1910.331.* Section 1910.331 sets forth the scope of the proposal. According to this section, the standard would cover electrical safety-related work practices of employees who work on, near, or with electric circuits and equipment. Types of work performed by qualified persons which would not be covered by the proposal are also listed. Although the scope is similar to that of NFPA 70E and to existing § 1910.302(a), there is a key difference. Briefly, the NFPA standard and § 1910.302(a) state certain installations [1] are not covered. OSHA is proposing that the work practice standard not apply to "qualified persons" (as defined in § 1910.399 and discussed later in this preamble) performing work on or directly associated with these same types of installations, because the work practices in this proposal do not address the types of electrical hazards faced by such workers performing this type of work. However, employees who are working at these installations but who are not "qualified" would be covered by the proposal. Safety-related work practices used by qualified employees who are performing work not covered in this proposal are addressed in other standards, such as 29 CFR Part 1926, Subpart V (power transmission and distribution); 29 CFR 1910.268 (telecommunications); and ANSI C2 (electric supply). This last standard has not been adopted by OSHA, but the Agency is currently developing a separate proposed standard for work practices to be used with electric power generation, transmission, and distribution systems.

An example of electric distribution line work that is "directly associated" with distribution lines (but that is not work "on" the lines) is line clearance tree trimming. In this activity, the work is performed on trees, but the work is directly associated with the distribution system. Thus, line-clearance tree trimming performed by a qualified person would not be covered by the proposed standard.

"Qualified person" is currently defined in § 1910.399 as: "One familiar with the construction and operation of the equipment and the hazards involved." "Qualified persons" are intended to be only those who are well acquainted with and thoroughly conversant in the electric equipment and

[1] *Namely:* Installation in mines; in ships and other watercraft; in aircraft; in automotive vehicles, excluding mobile homes and recreational vehicles; in railway rolling stock, including railway facilities for generation, transformation, transmission and distribution of power used for rolling stock signaling and operation; in communication facilities and in facilities for electric energy generation, control, transformation, transmission and distribution located outdoors or in building spaces used exclusively for such purposes.

electrical hazards involved with the work being performed. As used in the proposal, the term connotes different qualifications for different tasks. For example, with respect to the statement in proposed § 1910.331(c)(1) which exempts qualified linemen working on transmission lines, a qualified person would be one who understands the construction and operating characteristics of the transmission line and who has a thorough knowledge of the hazards involved in the type of work being performed on the line. On the other hand, this provision would not ordinarily exempt a transportation worker using a boom mounted on a flat bed truck to unload concrete blocks at a site near overhead distribution lines. This type of employee would not normally be expected to understand the construction and operation of the lines, nor would this person likely be completely knowledgeable in the hazards involved.

With respect to companies that own and operate the types of installations listed in paragraph (a)(3) of proposed § 1910.331 (for example, an electric utility), it is assumed that all employees whose work is on or is directly related to these installations are "qualified." OSHA has found it to be a very rare practice for an employer to allow an unqualified worker to perform work on one of these types of installations. However, it is common for an unqualified employee, such as a painter, to be engaged in unrelated work near an overhead electric power line. Because, by definition, an unqualified employee lacks sufficient training and experience, he or she faces a greater risk of electric shock while working near an electric power line than a qualified employee.

Whether an employee is considered to be a "qualified person" will depend upon various circumstances in the workplace. It is possible and, in fact, likely for an individual to be considered "qualified" with regard to certain equipment in the workplace, but "unqualified" as to other equipment. For example, an employee may have received the necessary training to be considered qualified to work on a particular machine. However, if that same employee were to work on other types of equipment for which he has not received the necessary training, he would be considered unqualified for that other equipment.

Work performed by other than qualified persons would be covered by the work practices contained in this proposal, even if the electrical installations involved are not covered by the installation safety requirements of Subpart S. This is because unqualified persons, by definition, do not have the training nor the skills necessary to perform work safely very close of electrical installations. Additionally, there are no standards, other than the 10-foot clearance rule for cranes and similar equipment, to cover these situations at present. Work performed by other than qualified persons near these "exempted" installations (e.g., near an electric transmission line) would be covered by the proposed requirements. Thus, for example, a painter carrying a ladder near electrice transmission or distribution lines would have to comply with the provisions of § 1910.333(c)(3)(i), but a qualified lineman working on the lines would not be covered.

The present installation safety requirements in Subpart S do not cover "installations under the exclusive control of electric utilities * * * for the generation, control, transformation, transmission, and distribution of electric energy" (§ 1910.302(a)(2)(v)). This exclusion, which reflects the unique hazards and work practices involved in generation, transmission, and distribution of electric energy, mirrors the provisions of the National Electrical Code and NFPA 70E. The work practices in this proposal were designed to complement the installation safety provisions in Subpart S and were not intended to cover work practices for qualified persons who work on or near electric generation, transmission, or distribution installations. Therefore, paragraph (c)(1) of proposed § 1910.331 provides that qualified persons working on these installations are not covered by the proposal. Additionally, because these types of installations involve similar hazards and work practices whether or not they are controlled by electric utilities, OSHA has determined that the proposal should not apply to qualified persons who work on or near any such installations, regardless of who owns or controls the installations. A note is provided at the end of the paragraph to emphasize that this exclusion is limited to qualified persons whose work is on or directly associated with these installations. The note states that, for other types of installations where work is to be performed on or near exposed energized parts, even qualified persons must comply with the work practices contained in this proposal. In these cases, the standard covers qualified persons who work near the energized parts as well as those workers qualified to work on the energized parts. As noted previously, OSHA is currently developing a separate proposed rule on electric power generation and related areas.

Under proposed § 1910.331(c)(2), qualified persons engaged in telecommunications work are not covered by the proposal to the extent that the hazards are covered by § 1910.268. That section applies to employers providing telecommunication service, including but not limited to communications utilities. Since the proposal would not apply to work covered by § 1910.268, there would be no overlap between the proposed regulations and the present telecommunications standard.

The installations listed in paragraphs (c)(3) and (c)(4) of proposed § 1910.331 are provided for consistency with the coverage of the installation safety requirements of Subpart S, as set forth in existing § 1910.302(a)(2)(i) and (iii), respectively. For example, under § 1910.331(c)(3), automotive repair work involving electric conductors and equipment installed on self-propelled vehicles performed by qualified employees would not be covered by the proposal. As explained previously, whether an employee is considered to be qualified depends upon various circumstances in the workplace. For an automobile mechanic or other employee to be considered qualified (and thereby not covered under proposed § 1910.331(c)(3)), he or she would have to understand the construction and operating characteristics of automotive electrical systems and would have to have a thorough knowledge of the hazards they present.

The safety-related work practices contained in the proposed standard would in fact be implemented by employees, but it would be the responsibility of employers to ensure that these practices are followed by their employees. The employer must satisfy this obligation by providing adequate training and supervision of employees and by implementing safe work practices.

(2) *§ 1910.332.* This section proposes training requirements. Employees would be required to be trained in (1) the safety-related work practices of the standard, as well as any other practices necessary for safety from electrical hazards, and (2) safety-related elements of their workplace environment. Inasmuch as the standard would apply to work performed on or near exposed energized parts unrelated to power generation, transmission, and distribution, such work must be performed by qualified persons, and appropriate training is required. Proposed § 1910.332(b)(3) explicitly

states what OSHA intends as a basic training requirement for such qualified persons.

In order to be as flexible as possible, the OSHA proposal accepts both classroom and on-the-job training. The NFPA 70E standard is silent on the method by which training is to be provided.

The economic impact of the proposal is limited, and the expected benefits are optimized, because the training requirements would apply primarily to employees in occupations that traditionally carry relatively high risk of injury due to electrical hazards. A review of the accidents indicates that the greatest impact on reduction of accidents would result from training employees who work in jobs which expose them to electrical hazards to a greater degree than the average worker.[2] Upon searching the available accident data, OSHA has determined that employees in the occupations listed in Table 3 are more likely to face a higher than normal risk of electrical accidents. (The occupations listed in Table 3 are general categories taken from the specific occupational groups given in Table 4, in Section IV of this preamble, which lists the electrical injury incidence rate for each group.) OSHA requests public comment on whether these general categories and the specific occupational groups from which they have been derived appropriately identify the high risk employees and whether any groups should be redefined, deleted, or added. The occupational groupings listed include any qualified persons who perform work covered by this proposed standard, as well as unqualified persons who also face a high risk. It is primarily these employees who would be subject to the training requirements. However, in some cases, employees in other occupational groupings may also face a relatively high risk of injury due to electric shock, and these employees would also require training. For example, a production employee may work in an area containing exposed live parts that are guarded only by location (such as overhead lines). If this worker could come in contact with these lines in the course of his or her work, then he or she would have to be trained. Training in the basic areas of hazard recognition, proper work practices, and knowledge of the working environment can reduce the frequency of accidents involving employees in these categories, whereas training employees who face a minimal exposure to electrical hazards would result in a negligible increase in benefits. Therefore, OSHA has proposed that training be required only for employees who face the greatest risk of injury due to electric shock or other electrical hazards.

TABLE 3.—TYPICAL OCCUPATIONAL CATEGORIES OF EMPLOYEES FACING A HIGHER THAN NORMAL RISK OF ELECTRICAL ACCIDENTS

Occupation
Electricians.
Mechanics and repairers.
Electrical and electronic technicians.
Electrical and electronic equipment assemblers.
Stationary engineers.
Material handling equipment operators.
Electrical and electronic engineers.
Blue collar supervisors.
Welders.
Riggers and roustabouts.

(3) *§ 1910.333.* Paragraph (a) of § 1910.333 proposes general requirements on the selection and use of work practices. The requirements of this paragraph mainly address accidents which involve the hazards of exposure to live parts of electric equipment. A deenergized part is obviously safer than an energized one. Because the next best method of protecting an employee working on exposed parts of electric equipment (the use of personal protective equipment) would continue to expose that employee to a significant risk of injury from electric shock, proposed § 1910.333(a) would make equipment deenergizing the primary method of protecting employees. Under certain conditions, however, deenergizing need not be employed. Employees may be allowed to work on or near exposed energized parts, if the employer can demonstrate that deenergizing would be infeasible or would introduce additional or increased hazards, e.g., interruption of life-support equipment, shutdown of hazardous location ventilation systems, or complete removal of illumination. In any case, employees working on or near energized parts must use safe work practices as required by the standard.

Paragraph (b) of proposed § 1910.333 covers work on or near exposed deenergized electric parts and includes requirements for lockout and tagging of equipment disconnecting means. The need for adequate lockout and tagging procedures for electrical equipment is widely recognized, as demonstrated by the ANSI and NFPA standards in this area. The accidents in OSHA's survey which involved work on electrical equipment also indicate a need for proper work practices in this area. Although the lockout and tagging requirements of NFPA 70E are used as a basis, the OSHA proposal clarifies and simplifies the requirements of the NFPA standard by directing the coverage to the prevention of employee contact with energized equipment or circuits. While the NFPA 70E requirements for lockout and tagging are highly detailed, the proposed regulations are general and more performance-oriented in nature. Additionally, the NFPA requirements apply any time work is performed on or near deenergized circuit parts or equipment in any situation which presents a danger that the circuit parts or equipment might become unexpectedly energized. Thus, the NFPA requirements not only address the hazard of contact with energized parts, but also cover other hazards which are presented by unexpected start-up of equipment during maintenance operations. This is expressed in NFPA 70E, Part II, Section 1.B, second paragraph, which states:

> Where the work to be performed requires employees to work on or near exposed circuit parts or equipment, and there is danger of injury due to electric shock, *unexpected movement of equipment, or other electrical hazards*, the circuit parts and equipment that endanger the employees shall be deenergized and locked out or tagged out in accordance with the policies and procedures specified in paragraph B(1) and Chapter 4 through subparagraph B(7)(b)). [Emphasis added.]

The proposal is intended to cover employee exposure to electrical hazards which might occur from the unexpected energizing of circuit parts and would not cover other equipment-related hazards which do not involve exposed live parts. Thus, the proposal would protect an electrician working on a deenergized circuit but would not address the mechanic working on the mechanical parts of an electrically powered machine.

OSHA recognizes that equipment maintenance and repair present significant hazards to employees. These hazards, which are different from those addressed by the electrical work-practices standard, would be covered by OSHA's proposed standard on the control of hazardous energy sources (lockout/tagout), which is currently under development. OSHA has written the two proposals so that they

[2] For a more thorough discussion of the relative risk of electrical accidents among various categories of employees and of how training reduces this risk, see Chapter IV of OSHA's Preliminary Regulatory Impact Assessment of the Proposed Electrical Safety-Related Work Practices Standard. This document is available for inspection and copying in the Docket Office.

complement one another. It is the Agency's intent that there be no conflicts between the two standards, and OSHA solicits public comments on this issue.

The application of this proposal's lockout and tagging requirements is set forth in § 1910.333(b)(2), reading as follows:

(2) *Lockout and tagging.* While any employee is exposed to contact with parts of fixed electric equipment or circuits which have been deenergized, the circuits energizing the parts shall be locked out or tagged or both in accordance with the requirements of this paragraph * * *.

OSHA has drafted its electrical lockout and tagging provisions to be more performance oriented than are the corresponding provisions of NFPA 70E. Within the range of hazards covered by the proposal, OSHA believes that the proposed lockout and tagging provisions would provide employees with electrical safety which is comparable to that which would be afforded by NFPA 70E, Part II.

OSHA has limited the application of the proposed lockout and tagging provisions to fixed equipment. (It is not clear whether the NFPA standard would apply to other than fixed equipment.) Employees can safely work on cord- and plug-connected, portable and stationary equipment which is disconnected from the circuit. Generally, such equipment is returned to the shop for repair, and the danger of accidental energizing of equipment parts is greatly reduced. Additionally, OSHA has no data indicating that there are accidents resulting from the unexpected energizing of other than fixed equipment.

The basic intent of § 1910.333 is to require employers to take one of three options to protect employees working on electric circuits and equipment: (1) Deenergize the equipment involved and lock out its disconnecting means (paragraph (b)); or (2) deenergize the equipment and tag its disconnecting means, if the employer can demonstrate that tagging is as safe as locking (paragraph (b)); or (3) work the equipment energized if the employer can demonstrate that it is not feasible to deenergize it (see discussion of § 1910.333(a) for permissible applications of this option and § 1910.333(c) for precautions to be taken when work is performed on or near energized parts). These are the same options allowed under NFPA 70E.

Paragraph (b)(2)(i) addresses the deenergizing of equipment within the lockout and tagging process. After a procedure is set for safe deenergizing, the circuits and equipment on which work is to be performed would be required to be disconnected from all energy sources. This ensures that the circuits are completely disabled. Because they do not completely deenergize entire circuits, control devices would not be permitted to be used as the only disconnecting means. Lastly, capacitive elements in the circuit would be required to be relieved of their stored energy and would be required to be short-circuited and grounded if necessary. These requirements would protect employees from the release of electrical energy during their work on the circuits or equipment.

Paragraph (b)(2)(ii) proposes requirements on the application of locks and tags to circuit disconnecting means. To prevent the unauthorized reenergizing of a circuit on which work is being performed, the proposal would, in general, require a lock and a tag to be placed on each disconnecting means that could supply power to the circuit. The proposal would also require the tags used to contain a statement prohibiting unauthorized operation of the disconnecting means and prohibiting removal of the tag. This requirement would inform employees of the purpose of the lock and tag.

To permit maximum flexibility, the proposed requirements permit the use of locks alone or tags alone under certain conditions. Tags would be permitted to be used without locks if locks cannot be applied to a given installation or if the employer demonstrates that tagging procedures will provide safety equivalent to that of a lock. So that employees could quickly recognize the purpose of the tag, the proposal would require that tags used under these circumstances be of a standardized design that clearly indicates that the affected circuit is not to be reenergized. For this same reason, all persons who have access to the circuit controlling devices would have to be trained in and familiar with the employer's tagging procedures. However, because a person could operate the disconnecting means before reading or recognizing the tag, the standard also proposes that, where tags only are used, an additional safety measure be taken to ensure that the closing of the tagged single switch would not reenergize the circuit on which employees are working. The additional safety measure is necessary because, at least for electrical disconnecting means, tagging is significantly less safe than locking out. A disconnecting means could be closed by an employee who has failed to recognize the purpose of the tag. The disconnect could also be closed accidentally. Public comment is requested on whether the additional safety measure is necessary when a disconnecting means is tagged and on what measures can be taken to protect employees from the accidental closing of a tagged switch. OSHA also requests public comment on situations in which tagging procedures may provide safety equivalent to that provided by locks.

When the work to be performed involves only a simple circuit and can be completed in a short time, a lock can be used safely without a tag. The proposal would limit the use of this procedure to any situation that involves one circuit or a single piece of equipment and that involves a lockout period of no more than one work shift. Additionally, affected employees would be required to be trained in and familiar with this procedure. Public comment is requested on whether there are other situations in which a tag would not be necessary if a lock is used.

Proposed § 1910.333(b)(2)(iii) contains requirements for verifying that the correct circuits have, in fact, been deenergized. The requirement for determining whether a circuit has been opened can be satisfied by operating the controls for the equipment supplied by the circuit. This method has the advantage of not exposing employees to possibly energized parts. Therefore, the proposal makes this the first step in verifying the condition of the circuit.

Of course, operating the equipment controls is not a completely reliable indication that the circuit has been deenergized. It is possible to interrupt a portion of the circuit so that the equipment will not operate even though the rest of the circuit is still alive. Therefore, the standard proposes that a qualified person use test equipment to ensure that all parts of the circuit to which employees will be exposed are deenergized. Because it is also possible, under certain conditions, to feed circuits from the "load" side, the test would be required to check for any voltage backfeed which might be present.

Voltages over 600 volts are more likely than lower voltages to cause test equipment itself to fail, leading to false indications of no-voltage conditions. To prevent accidents resulting from such failure of test equipment, the proposal would require checking operation of the test equipment immediately before and after use.

Once work has been completed, it will be necessary to reenergize the circuit. Paragraph (b)(2)(iv) of proposed § 1910.333 addresses the procedure to be used for this task. The first step that must be taken is an inspection or test (or both) of the circuits and work areas to ensure that all tools, jumpers, grounds,

and other devices have been removed. Otherwise, energizing the circuits involved could result in a short-circuit condition that injures employees. The proposal would require that such inspections and tests, if necessary, be performed by a qualified person.

To protect employees from contact with reenergized circuit parts, the proposal would require that affected employees be notified to stay clear. After all locks and tags are removed, a visual determination that employees are clear of danger would be required. Once these procedures have been followed, it is safe to reenergize the circuits.

Paragraph (b)(3) of § 1910.333 proposes requirements that restrict the manner in which interlocks may be defeated. Interlocks deenergize circuits to prevent electric shock to persons using equipment or performing minor maintenance or adjustments. However, under some maintenance conditions, the interlocks must be rendered inoperative so that tests or adjustments can be made. To prevent injury to employees who may not realize the hazards involved, paragraph (b)(3) proposes that only qualified persons be permitted to defeat interlocks. Also, when the qualified person's work is completed, the interlock system would be required to be put back into an operative condition.

Paragraph (c) applies to work on or near exposed energized parts. This paragraph proposes requirements intended to prevent accidents due to the presence of exposed live parts. Requirements are given pertaining to work near overhead lines, illumination, confined work spaces, conductive materials and equipment, portable ladders, conductive apparel, and housekeeping duties. Additionally, the proposal would allow only qualified persons to work on energized electric equipment.

Since overhead lines are a major source of occupational electrocutions (47 of 111 electrocutions in OSHA's survey), regulations dealing with work near such lines are stressed. A number of these accidents involve employees engaged in activities which place them near electric power conductors installed above ground (e.g., a painter moving a ladder). The requirements of proposed § 1910.333(c)(3) have been expanded beyond those found in the NFPA 70E section on overhead lines and are more stringent. According to proposed § 1910.333(c) 3)(i), other than qualified persons would be required to maintain a 10-foot (350-cm) minimum clearance from unguarded energized overhead lines. This clearance distance is based on the 10-foot (305-cm) clearance rules presently contained in §§ 1910.67(b)(4), 1910.180(j), 1910.266(c)(6) (xxii), 1926.550(a)(15), and 1926.600(a)(6), which apply to the use of various mechanical equipment near electric power lines.

OSHA realizes that it is sometimes necessary for work to be performed closer to the lines than 10 feet (305 cm) when it is infeasible or impossible to deenergize them. However, since unqualified persons are not fully aware of the danger involved, such work may be performed only by qualified personnel. Therefore, for qualified persons, the proposal would allow smaller clearances, as given in Table S–5. These clearances are the same as those given in Table R–2 of § 1910.268, "Telecommunications." The smaller clearances allow qualified persons to perform tasks which require close approach to overhead lines. At the same time, the smaller clearances provide protection from arc-over with a sufficient safety factor for employees who are familiar with the construction and operation of overhead electric power lines and with the hazards involved. Additionally, if the work requires closer approach than even these smaller clearances allow, qualified persons would be permitted to approach the lines as close as necessary if insulation or guarding is provided.

Without differentiating between qualified and unqualified workers, the NFPA standard requires a "safe distance" to be maintained for any employee working in elevated positions near unguarded, energized lines but does not specify what this distance is. For employees on the ground, the consensus standard requires deenergizing or guarding any overhead line that might be contacted.

For vehicular and mechanical equipment (§ 1910.333(c)(3)(iii)), OSHA is proposing a minimum clearance of 10 feet (305 cm), while NFPA 70E allows equipment other than aerial lifts, mobile cranes, and derrick trucks [3] to come as close as 4 feet to exposed, energized overhead lines. In the OSHA proposal, approaches closer than 10 feet are allowed for (1) vehicles in transit; (2) lines protected by insulating barriers; and (3) aerial lifts operated by qualified persons. These closer approach distances are based on exceptions to the 10-foot (305-cm) clearance rules presently contained in the existing OSHA standards noted previously. All of OSHA's existing standards (e.g., § 1910.180(j)(1)) require a basic 10-foot clearance for the specific equipment covered. Additionally, § 1926.000(a)(6) of the Construction Standards requires all mechanical equipment to keep 10 feet away from power lines. Therefore, the proposal is consistent with OSHA's existing regulations and minimizes the confusion as to what clearances are required.

The clearance distances listed in NFPA 70, as well as those given in OSHA's proposal, protect against arc-over of current from the lines to the equipment. Assuming that the equipment would never come any closer than permitted by either standard, both would theoretically provide employees with protection. However, the main concern involved in operating mechanical equipment near exposed power lines is unintended movement of the equipment which may bring the equipment too close to the lines. A 10-foot clearance provides a more reasonable margin of error compared to the distances given in NFPA 70E. Additionally, the clearance distances in NFPA 70E vary according to the type of equipment in use and the voltage of the power lines. This is unnecessarily complicated and could cause confusion and accidents.

With respect to the hazards of overhead power lines, OSHA feels that its proposal provides greater safety than the national consensus standard. In view of the fact that 47 of the 111 electrocutions studied were due to the use of equipment or material too close to exposed energized overhead lines, OSHA believes that requirements to prevent such electrocutions are of the highest priority and should provide as much safety as possible. For these reasons, and in order to promote consistency within the OSHA standards, the proposal contains a basic 10-foot (305-cm) clearance rule, with certain exceptions. If information is forthcoming demonstrating ways in which specific operations can be performed safely with clearances less than 10 feet, OSHA will consider changing the rule to provide for such situations.

Paragraph (c)(4) of proposed § 1910.333 addresses the hazards associated with working near exposed live parts where visibility would be impaired. Adequate illumination would be required by proposed paragraph (c)(4)(i) to ensure that employees could see well enough to avoid contacting exposed live parts. Specific guidance is not provided in the proposal, but OSHA requests comments and supporting data with respect to levels of illumination that are necessary for safety.

[3] For these types of equipment only, NFPA refers to OSHA's existing standards, which require a minimum clearance of 10 feet.

Paragraph (c)(4)(ii) prohibits the act of blind reaching into areas containing exposed live parts. Obviously, if the live parts cannot be seen, it would be difficult to avoid contact with them. Therefore, the standard proposes that employees not be allowed to work in areas which contain exposed live parts that cannot be seen because of obstructions or poor lighting.

Some installations of electric equipment provide little working space for maintenance employees. Such cramped conditions can lead to employees' backing or moving into exposed live parts. To prevent this from occurring, proposed paragraph (c)(5) would require precautions to be taken to assure that accidental contact with the parts does not occur. For example, protective blankets could be used to shield some of the live parts, or portions of the electrical installation could be deenergized. Also, doors or panels that could knock into employees and cause them to contact exposed energized parts would have to be restrained.

Handling metal ladders and other conductive materials in the vicinity of overhead lines is a leading cause of occupational electrocutions. (See category (i)(c) in Table 2 of this preamble.) Proposed paragraphs (c)(6) and (c)(7) address the hazards associated with such material handling operations. To protect employees handling conductive tools or materials near exposed live parts, paragraph (c)(6) proposes that the conductive materials or equipment be handled in a manner that will prevent their contacting the energized parts. Because moving such long metal objects as pipes and ducts can be particularly hazardous in areas containing exposed energized conductors or circuit parts, the proposal would also require the employer to institute work practices that minimize the hazards associated with handling these objects. For example, the employer could require employees to handle metal irrigation pipes so that the pipes are always in a horizontal plane. This practice would prevent the material from contacting overhead power lines.

Metal ladders can also provide a path to ground for workers who directly contact live parts. In paragraph (c)(7), OSHA has proposed to prohibit the use of metal ladders by employees who would be working where they might contact exposed energized circuit parts. This should protect these workers from electric shock. In view of the accidents occurring when metal ladders contact overhead lines, the Agency is requesting comments on whether metal ladders should also be prohibited from being used where they might contact energized overhead electric power lines.

Proposed §1910.333(c)(8) would not allow employees to wear conductive objects, such as metallic jewelry, in a manner presenting an electrical contract hazard. Typical accident descriptions indicate that these metal objects short circuit live parts; and, as current flows through the objects, the employees wearing them are severely burned. Protective methods include wrapping the conductive apparel with nonconductive tape, use of rubber gloves, use of insulation on the live part, as well as removal of the conductive item. OSHA understands that compliance may present difficulties as many employees may not want to remove or cover certain articles of jewelry. However, given the severity of the possible consequences (e.g., loss of a finger, arm burns, or injury to adjacent coworkers), OSHA believes that some means of protecting the employee, as well as others nearby, must be provided.

Proposed paragraph (c)(9) addresses the hazards related to housekeeping duties (such as electric equipment cleaning or vegetation spraying, clipping, or trimming) performed near exposed energized circuit parts. The proposal would require the employer to adopt safeguards that prevent employees performing such duties from contacting energized parts, either directly or through conductive cleaning aids. Examples of protective measures include the use of protective insulating equipment or the provision of guards to prevent contract.

(4) *§1910.334.* Requirements of this section address the hazards of using electric equipment. Although the hazards common to the installation of electric equipment are covered in the existing Subpart S regulations, the accidents in OSHA's survey show that equipment is used improperly or is damaged in use. Such misuse and abuse of equipment creates hazards which the existing installation standards address only indirectly. The proposed requirements would cover these hazards more directly.

Paragraph (a) of §1910.334 proposes requirements on the use of cord- and plug-connected equipment, including extension cords, and addresses common hazards associated with their use. The proposal would require portable equipment to be handled in a manner which will not cause damage and would require visual inspection of cords, plugs, and receptacles. Additionally, paragraph (a)(2)(ii) would prohibit the use of the defective equipment. These requirements would protect employees from electric shocks caused by damaged equipment. Such defects as missing grounding prongs on attachment plugs and poor insulation on conductors have caused injuries to employees.

To prevent the connection of mismatched or misaligned plugs and receptacles, these devices would have to be checked to ensure that they are of compatible configurations and alignment. If this is not done, an employee might force a plug of one rating into a receptacle of a different rating, leading to a lack of proper overcurrent protection or, even worse, to the application of a higher than intended voltage on connected equipment.

In paragraph (a)(3), rules ensuring the continuity of grounding conductors for cord- and plug-connected equipment are also proposed. For example, clipping the grounding prong from a plug would be prohibited. Paragraph (a)(4) would require portable electric equipment used in highly conductive locations (e.g., those inundated with water) to be approved for the use: paragraph (a)(5) would imposed regulations on the connection of attachment plugs. The requirements proposed in §1910.334(a) should ensure that cord- and plug-connected equipment continues to meet the installation requirements currently containted in Subpart S and is used in its intended manner.

Proposed §1910.334(b) deals with electric circuits. To protect the operator from failure of a disconnect, the proposal would require devices used for opening circuits under load to be designed for the purpose. Circuits deenergized by the opeation of a protective device (such as a fuse or circuit breaker) would have to be checked to ensure that they could be safely reenergized. Without such a check, it is possible for an employee to be injured in case of failure of the protective device and damage to the protected circuit. Lastly, this paragraph would prohibit changing (for maintenance of other purposes) overcurrent protective devices in any manner which would violate § 1910.304(e), the installation safety requirement for overcurrent protection. This provision will prevent the use of a fuse or circuit breaker with a rating too high too protect the equipment or conductors involved. This provision is also intended to prevent the temporary bypassing of protective devices, which could lead to shock and fire hazards.

Paragraph (c) of proposed § 1910.334 sets forth requirements on the use, rating, and inspection of electrical test instruments and equipment. Because the use of test instruments can expose

employees to live parts of electric circuits, paragraph (c)(l) would require testing work on electric circuits or equipment to be performed by qualified persons.

To prevent injuries to employees resulting from exposed conductors or other defects in the test equipment, paragraph (c)(2) would require the visual inspection of such equipment before use. Of course, employees would not be permitted to use this equipment until it has been repaired.

Using test equipment on circuits with voltages or currents higher than the rating of the equipment or in improper environments can cause the equipment's failure. Since employees can be injured as a result of this failure, paragraph (c)(3) would require test equipment to be used within its rating and to be suitable for the environment in which they are to be used.

Paragraph (d) of § 1910.334 would require suitable protective measures to be taken to protect against the hazards of using flammable and ignitible materials occasionally in ordinary locations (those which are not covered by existing § 1910.307). While storage, manufacture, and other on-going presence of flammables are covered under the installation requirements for hazardous locations contained in Subpart S, temporary uses are not covered. The proposal would prohibit energizing electric equipment which might ignite the flammable or ignitible materials, unless suitable protective measures are taken. Protective measures could include ventilation and clearing accumulations of combustible dusts, as appropriate.

(5) *§ 1910.335.* The requirements of this section address accidents involving the failure to use protective equipment. Paragraph (a) of proposed § 1910.335 addresses the proper use of protective equipment. Requirements would include those on inspection, protection, and situations demanding the use of personal protective equipment. These proposed regulations are intended to ensure that the equipment will actually provide insulation of and safety to the employee.

OSHA's existing regulations [4] on the design of insulating protective equipment are contained in Subpart I of 29 CFR Part 1910, which references various American National Standards Institute (ANSI) standards.

Rubber protective equipment for electrical workers shall conform to the requirements established in the American National Standards Institute Standards as specified in the following list:

Item	Standard
Rubber insulating gloves	J6.6—1967
Rubber matting for use around electric apparatus.	J6.7—1935 (R 1962)
Rubber insulating blankets	J6.4—1970
Rubber insulating hoods	J6.2—1950 (R 1962)
Rubber insulating line hose	J6.1—1950 (R 1962)
Rubber insulating sleeves	J6.5—1962

NFPA 70E refers to more recent (but not the most recent) editions [5] of the same ANSI standards. However, in this rulemaking effort, OSHA is not proposing to make changes to Subpart I. OSHA has decided that it would be more appropriate to revise its regulations on the construction of insulating protective equipment as a part of another rulemaking effort. The revision of § 1910.137 is currently under development.

Since most new protective equipment meets the more recent ANSI standards, this action seems to make OSHA's standards appear to be inconsistent with current industry practices. However, as set forth in OSHA Instruction No. CPL 2.45A, under circumstances in which an OSHA standard incorporates an earlier edition of a national consensus standard that has since been revised by the standards writing organization, OSHA policy is generally not to cite employers who use equipment made in accordance with later editions of those standards.

Paragraph (a) of § 1910.335 also addresses the use of other types of protective equipment not specifically covered in Subpart I, such as fuse handling devices, nonconductive rope, and protective shields and barriers.

Paragraph (b) applies to alerting techniques. To inform employees about electrical hazards to which they are exposed, safety signs and symbols would be required. (Requirements for safety signs, symbols, and tags are contained in existing § 1910.145. The proposed requirement for safety signs, symbols, and tags does not increase the burden imposed by this existing standard.) This paragraph would also require the use of barricades to limit access to areas containing exposed, energized electric parts. If signs and barricades alone will not adequately protect employees, other means, such as an attendant, must be used to provide the necessary protection.

(6) *§ 1910.399.* OSHA is proposing to apply the definitions in existing § 1910.399 to the entire Subpart S and to remove the paragraph designations from the section. Also, the proposed standard would add a definition for the term "may".

An explanation of the use of the word "may" would also be added to the definitions. To conform to correct grammar and to existing usage in Subpart S, the words "may" and "shall" have been used as follows:

A. If a discretionary right, privilege, or power is conferred, the word "may" has been used. (For example: the employer may restrict access to equipment; i.e., it is permissible for the employer to do this.) Such rules are permissive in nature and are usually used as exceptions to requirements.

B. If a right, privilege, or power is abridged, or if an obligation to abstain from acting is imposed, the word "may" has been used with a restrictive "no," "not," or "only." (For example: (1) No unqualified person may enter restricted areas; (2) unqualified persons may not enter restricted areas; or (3) only qualified persons may enter restricted areas. For all three cases, persons who are not qualified are prohibited from restricted areas.) These requirements are mandatory.

C. If an obligation to act is imposed, the word "shall" has been used. (*For example:* employers shall restrict access to areas containing live parts. This rule is mandatory upon the employer to act.)

The use of these terms in the proposal is consistent with their use in the existing Subpart S.

(7) *Miscellaneous.* Various general industry standards have continued to reference the 1971 NEC, even though the latest revision of Subpart S makes such references unnecessary. Therefore, a number of miscellaneous amendments have also been proposed to substitute references to Subpart S for the current references to the NEC (§§ 1910.68(b)(4) and (c)(5)(iv)(*c*), 1910.94(a)(2)(iii), 1910.103(b)(3)(iii)(*e*), 1910.110 Table H-28, and 1910.178(c)(2)). Other changes

[4] *§ 1910.137 Electrical protective devices.*

[5] Blankets—ANSI/ASTM D1048—1977, Specifications for Rubber Insulating Blankets.
Hoods—ANSI/ASTM D1049—1977, Specifications for Rubber Insulating Covers.
Line Hoses—ANSI/ASTM D1050—1977, Specifications for Rubber Insulating Line Hoses.
Sleeves—ANSI/ASTM D1051—1977, Specifications for Rubber Insulating Sleeves.
Gloves—ANSI/ASTM D120-1977, Specifications for Rubber Insulating Gloves.
Mats—ANSI/ASTM D178—1977, Specifications for Rubber Insulating Matting.
ANSI—American National Standards Institute.
ASTM—American Society for Testing and Materials.

have been proposed to consolidate electrical safety-related work practices in Subpart S and, where possible, eliminate them from other subparts of Part 1910 (§§ 1910.26(c)(3)(viii), 1910.67(b)(4), 1910.180(j), 1910.181(j)(5), 1910.265(c)(12), and 1910.266(c)(6)(xxii). In five other places in Part 1910 (§§ 1910.106(h)(7)(iii)(*a*), 1910.179(g)(1)(i), 1910.252(a)(6)(iv)(*d*)(2), and 1910.261(g)(1)(iv) and (k)(16)), the regulations contain inaccurate references to the electrical standards. OSHA has proposed to revise these provisions so that they refer to Subpart S.

One other proposed revision would remove existing paragraph (b)(1) from § 1910.304. Since this provision relates only to construction work, its inclusion in the General Industry Standard is unnecessary. The same requirement is appropriately contained in § 1926.404(b)(1) of Subpart K of Part 1926, the Construction Safety and Health Standards.

IV. Regulatory Impact Assessment

The Preliminary Regulatory Impact and Flexibility Analysis for the proposed standard on electrical safety-related work practices for general industry was prepared in accordance with the requirements of Executive Order 12291 and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.). Since the proposed standard is not likely: (1) To have an annual effect on the economy of $100 million; (2) to result in a major increase in costs or prices for consumers, industries, government agencies or geographic regions; or (3) to have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises, the proposal does not constitute a major rule under the cost criteria of Executive Order 12291. However, because of the wide ranging impact of the proposal, OSHA is treating this standard as if it were a major rule.

A. Affected Industries

The standard would apply in some respect to every major SIC economic division with the exception of agriculture, construction, and public administration. In 1984, these affected industries accounted for about 4.5 million firms and a total of 69 million employees.

B. Benefits

The analysis of the benefits of the proposed standard covered the four years from 1984 through 1987 and was performed relative to a baseline reflective of the levels of electrical safety training and electrical safety-related work practices currently found in general industry. OSHA estimates that under current practices, 243 deaths and 7,721 injuries will occur in 1987.

To estimate the potential benefits of the proposed standard or its probable effectiveness in preventing electrical contact injuries (e.g., shock, electrocution), an analysis of differential risk was first performed. The analysis revealed that, in 1987, an estimated 1753 nonfatal and 101 fatal injuries could be avoided if the standard were implemented. The injuries which could be avoided during the first through fourth years are as follows:

Year	No. of nonfatal/ fatal injuries avoided
1984	1,660/96
1985	1,691/97
1986	1,721/99
1987	1,753/101

C. Technical Feasibility and Costs

OSHA has determined that the proposal would be technologically feasible, as all of the provisions can be met by using currently available equipment, facilities, tests, inspections and work practices.

Current practices are used for the cost analysis baseline. In estimating the industrywide costs of complying with the proposed standard, it was assumed that workplaces would incur costs relating to:

—Providing appropriate training to employees, and
—Meeting the requirement of the lockout and tagging provision.

The annual cost of the proposed standard is estimated at $90.8 million (in 1985 dollars).

The allocation of training costs for OSHA's proposed electrical safety work practices standard is based on the categorization of occupations according to the actual or potential risk of injury associated with working on or near exposed live electrical circuitry. Occupations were grouped into high, elevated, and low risk categories based on the level of worker exposure to electrical hazards and the incidence rate of electrical injuries per occupation (see Table 4).

TABLE 4.—OCCUPATIONS REQUIRING TRAINING

Category	Annual electrical injury incidence rate [1]	Occupation	Population to be trained [2]
High Risk—1 hour Training	.933	Electrical Assemblers	337,506
	.933	Electrical Machinery Assemblers	114,406
	.821	Powerline Troubleshooters	166
	.821	Electricians	187,118
	.821	Line Installers/Cable Splicers	552
	.426	Stationary Engr. & Station Oper.	43,861
	.101	AirCond/Heating/Refrig Mechanic	254,227
	.101	Electrical Instrument Repairers	8,442
	.101	Electric Motor Repairers	24,883
	.101	Industrial Machine Repairers	308,857
	.101	Instrument Repairers	36,391
	.101	Maintenance Repairers	658,039
	.050	Computer Service Technicians	69,419
	.050	Electronic Wirers	44,437
	.050	Radio/TV Service Technicians	51,516
	.050	Electronic Technician	376,900

TABLE 4.—OCCUPATIONS REQUIRING TRAINING—Continued

Category	Annual electrical injury incidence rate [1]	Occupation	Population to be trained [2]
Elevated Risk—½ hour Training	.101	Appliance Installers	75,036
	.101	Office Machine Repairers	68,205
	.046	Blue Collar Supervisors	1,067,645
	.046	Petroleum Derrick Operators	19,708
	.046	Crane/Derrick/Hoist Operators	82,641
Low Risk—¼ hour Training	.101	Welders and Flame Cutters	433,721
	.101	Knitting Machine Repairers	8,713
	.101	Loom Fixers	14,604
	.053	Roustabouts	123,328
	.053	Truck Drivers	54,464
	.046	Riggers	17,459
	.010	Electrical Engineers	299,701
Total			4,781,945

[1] *Final Report, Regulatory Assessment of the Impact of the Proposed Electrical Safety-Related Work Practices Standard,* JACA Corporation, Fort Washington, PA, January 1984, Contract #J-9-F-2-0068, p. 4-10.

[2] U.S. Department of Labor, Bureau of Labor Statistics, *National OES Survey-Based Matrix, Industry-Occupation Employment, 1983 and projected 1995 Alternatives* (Washington, DC, U.S. GPO, 1983).

Populations to be trained were taken from the BLS *National OES Survey-Based Matrix, Industry-Occupation Employment, 1983 and Projected 1995 Alternatives.* Incidence rates for all occupations affected by the standard were determined by the following formula:

(Number of SDS Claims/Employment population)x1000.

Dept. of Labor Fatality/Catastrophe and Underwriters Laboratories (UL) electrical injury reports were also utilized to determine, qualitatively, occupations with high electrical hazard exposures. For example, of 208 serious electrical injury and death reports, Electricians accounted for 47 and Powerline Troubleshooters accounted for 38; these occupations were identified as high risk. Line Installers/Cable Splicers accounted for 18 injuries and deaths and Crane Operators accounted for 26; these were placed in the elevated risk category. In the low risk category, Welders and Flame Cutters accounted for 12 injuries and deaths, and Truck Drivers accounted for 15. The UL and Fatality/Catastrophe data sets were generally consistent with the SDS-generated injury incidence rates; occupations with a high incidence rate of electrical injury accounted for a relatively large proportion of the Fatality/Catastrophe and UL reports, and occupations with a low SDS incidence rate generally account for few injuries.

The high risk category includes occupations which require routine work on or near live parts of electric equipment. Injury incidence rates for these occupations ranged between 0.933 (Electrical Assemblers and Electrical Machinery Assemblers) and 0.426 (Power Station Operators and Stationary Engineers). However, some occupations in the high risk category had lower incidence rates ranging from 0.050 (Electrical Technicians and Electronic Wirers) to 0.101 (Electric Motor Repairers, Electrical Instrument Repairers, etc.). Although these occupational groups had relatively low injury incidence rates, they were placed in the high risk category because of their high exposure to electrical hazards.

The elevated risk category includes occupations in which work on or near live parts is not routine but frequent work on live circuitry is expected. This category includes such occupations as Appliance Installers/Repairers and Crane/Derrick/Hoist Operators, with incidence rates of 0.101 and 0.046, respectively.

The low risk occupations do some work on live circuitry but accidental contact is minimal compared with the other occupations. This category includes Welders/Flame Cutters, Knitting Machine Repairers, Loom Fixers, Roustabouts, Truck Drivers, Riggers, and Electrical Engineers. Incidence rates range from 0.101 for Welders to 0.010 for Electrical Engineers.

Based on this categorization scheme, one hour of annual training would be needed for the 2,516,720 employees in the high risk category, one-half hour of training for the 1,313,235 employees in elevated risk jobs, and one-quarter of an hour of training for the 951,990 employees at low risk (Table 4).

The proposed standard may require the training of additional employees who face a risk of injury due to electric shock or other electrical hazards. These employees may be found in occupations other than those listed in the PRIA. The Agency requests information on any individuals or occupational groups which may not have been included in the PRIA. Any comments received will be reviewed and evaluated for incorporation into the final rule and into the Regulatory Impact Assessment that will accompany the final rule.

OSHA did not calculate the cost of procuring electrical protective equipment for compliance with the proposal. Employers are already required to have adequate supplies of rubber insulating equipment by § 1910.132. Therefore, OSHA has concluded that the proposal would not result in a significant purchase of additional protective equipment. The Agency requests information concerning this conclusion, and any comments received will be reviewed and evaluated for incorporation into the final rule and into the Regulatory Impact Assessment that will accompany the final rule. Specifically, OSHA is requesting commenters to answer the following questions:

(1) Do employers possess adequate supplies of the personal and other protective equipment required to comply with the proposed standard?

(2) If not, what items are lacking and at what cost could the requirements be met?

D. Economic Feasibility and Impacts

OSHA has also determined that the proposal would be economically feasible. The potential impacts of compliance on individual firms were evaluated by using financial models of firms in two industries. Industries selected represented a range of diversity with respect to the degree of electrical hazard present and the amount of effort required to comply with the proposed standard. The first-year model firm costs ranged from $52 to $124 for small firms, and from $1,210 to $2,945 for large firms. The analysis revealed that even if the entire cost of compliance were passed forward, the impact would be extremely small. With respect to the standard's potential impact on the profitability of firms, the analysis showed that even if the compliance costs were fully absorbed, profitability as measured by return on assets and profit margin would not be significantly reduced. None of the reductions would exceed 1.0 percent.

E. Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), OSHA has assessed the impact of the proposed standard and certifies that it would not have a significant impact on a substantial number of small entities. The majority of the firms subject to the proposed standard are small. Using a definition of a small firm as one that employs fewer than 20 workers, nearly 86 percent of the covered firms fall into the "small'" category. The estimated cost of compliance with the proposed standard, however, would result in less than 1.0 percent decrease in profitability. OSHA has determined that, although many small firms would be affected by the proposal, the costs would be easily absorbed and there would be no significant or disproportionate impact on small entities.

F. Preliminary Regulatory Impact Analysis

The preceding discussion summarizes the key findings of the Preliminary Regulatory Impact Analysis (PRIA) of the proposed amendment to Subpart S, Part 1910, prepared by the Office of Regulatory Analysis of the Occupational Safety and Health Administration. The PRIA includes assessments of estimated compliance costs, estimated benefits, risks, small business impact, alternative regulatory and nonregulatory options and a profile of the industry. The PRIA is based on contract work performed for OSHA by JACA Corp. Their report, "Regulatory Assessment of the Impact of the Proposed Electrical Safety-Related Work Practices Standard, Final Report", January 20, 1984, and OSHA's Preliminary Regulatory Impact Analysis are available to the public in Docket S–016. The public is invited to comment on these documents. All comments and other information supplied will be carefully reviewed and evaluated for incorporation into the Regulatory Impact Assessment that will accompany the final rule.

With respect to the PRIA, OSHA is requesting public comment on the following specific issues:

(1) OSHA has estimated that this proposed standard would prevent 85 percent of injuries and fatalities which are "potentially preventable." (See PRIA) "Potentially preventable" means that the causes of the accidents are addressed in this proposed standard. The 85 percent effectiveness rate assumes that, if all covered employers complied with the standard, 15 percent of "potentially preventable" accidents would still occur because of (human error). The 85 percent effectiveness rate depends, in this proposed standard, largely on the assumed effectiveness of employee training in preventing accidents. OSHA requests public comment on whether the 85 percent effectiveness rate is appropriate. If not, what would be the appropriate rate? How effective will the required training be in preventing accidents?

(2) In the PRIA, OSHA assumed 2 minutes of lost productive time for each instance of lockout. (See PRIA) OSHA requests public comment on whether this amount of lost time is appropriate. If not, what is the appropriate amount of time that would be lost?

V. Recordkeeping

This proposal references the requirements for safety signs and tags contained in existing § 1910.145. The paperwork requirements of § 1910.145 have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 1218–0132. Comments on these requirements as referenced in the proposed standard should be sent to: Desk Officer for OSHA, Room 3208, OMB, 726 Jackson Place NW., Washington, DC 20503.

VI. Public Participation

Interested persons are invited to submit written comments on the proposed standard and to file objections and request a public hearing.

Written data, views and arguments concerning the proposal must be postmarked on or before February 29, 1988, and submitted in quardruplicate to the Docket Office, Docket No. S–016, Rm. N–3670; U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying in the Docket Office between the hours of 8:15 am and 4:45 pm. All timely written submissions received will be made a part of the record of this proceeding.

Under section 6(b)(3) of the Occupational Safety and Health Act, interested persons may file formal objections to the proposal, requesting an informal public hearing, in accordance with the following conditions:

1. The objections must include the name and address of the objector.

2. The objections must be postmarked on or before February 29, 1988, and submitted to the Docket Office, Docket S–016, Room N3670, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210;

3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be presented at the requested hearing.

OSHA recognizes that there may be interested persons who, through their knowledge of safety or their experience in the operations involved, would wish to endorse or support certain provisions in the standard. OSHA welcomes such supportive comments, including any pertinent accident data or cost information which may be available, in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

VII. State Standards

The 23 States and 2 Territories with their own OSHA-approved occupational safety and health plan must adopt a comparable standard within 6 months of the publication date of a final standard. These are: Alaska, Arizona, California,[6] Connecticut,[6] Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York,[6] North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah,

[6] Plan covers only State and local government employees.

Vermont, Virginia, Virgin Islands, Washington, Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate.

VIII. List of Subjects in 29 CFR Part 1910

Electric power, Fire prevention, Flammable materials, Occupational safety and health, Safety, Signs and symbols, Tools.

IX. Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1910 as set forth below.

Signed at Washington, DC this 23rd day of November 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations would be amended as follows:

PART 1910—[AMENDED]

Subpart D—[Amended]

1. The authority citation for Subpart D of Part 1910 would continue to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable. Sections 1910.23, 1910.24, 1910.25, 1910.26, and 1910.28 also issued under 29 CFR Part 1911.

§ 1910.26 [Amended]

2. Paragraph (c)(3)(viii) of § 1910.26 would be removed.

Subpart F—[Amended]

3. The authority citation for Subpart F of Part 1910 would continue to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Sections 1910.66, 1910.67, 1910.68, and 1910.70 also issued under 29 CFR Part 1911.

4. Paragraph (b)(4) of § 1910.67 would be revised to read as follows:

§ 1910.67 Vehicle-mounted elevating and rotating work platforms.

* * * * *

(b) * * *

(4) For operations near overhead electric lines, see § 1910.333(c)(3).

* * * * *

5. Paragraphs (b)(4) and (c)(5)(iv)(*c*) of § 1910.68 would be revised to read as follows:

§ 1910.68 Manlifts.

* * * * *

(b) * * *

(4) Reference to other codes and subparts. The following codes, and subparts of this part, are applicable to this section. Safety Code for Mechanical Power Transmission Apparatus ANSI B15.1–1953 (R 1958) and Subpart O; Subpart S; Safety Code for Fixed Ladders, ANSI A14.3–1956 and Safety Requirements for Floor and Wall Openings, Railings and Toeboards, ANSI A12.1–1967 and Subpart D.

* * * * *

(c) * * *

(5) * * *

(iv) * * *

(*c*) Where flammable vapors or combustible dusts may be present, electrical installations shall be in accordance with the requirements of Subpart S of this part for such locations.

* * * * *

Subpart G—[Amended]

6. The authority citation for Subpart G of Part 1910 would continue to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Sections 1910.94 and 1910.99 also issued under 29 CFR Part 1911.

§ 1910.94 [Amended]

7. The words: "the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of C1–1968)" would be removed from paragraph (a)(2)(iii) of § 1910.94 and would be replaced with: "Subpart S of this part".

Subpart H—[Amended]

8. The authority citation for Subpart H of Part 1910 would be revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable. Sections 1910.103, 1910.106, 1910.107, 1910.108, 1910.109, and 1910.110 also issued under 29 CFR Part 1911.

9. Paragraph (b)(3)(iii)(*e*) of § 1910.103 would be revised to read as follows:

§ 1910.103 Hydrogen.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(*e*) Electric equipment shall be in accordance with the requirements of Subpart S of this part for Class I, Division 2 locations.

* * * * *

10. Section 1910.106 would be amended to remove the acronym "NEC" from the boxheads in Tables H–18 and H–19, and paragraph (h)(7)(iii)(*a*) would be revised to read as follows:

§ 1910.106 Flammable and combustible liquids.

* * * * *

(h) * * *

(7) * * *

(iii) *Electrical.* (*a*) All electric wiring and equipment shall be installed in accordance with Subpart S of this part.

* * * * *

§ 1910.110 [Amended]

11. The words "National Electrical Code" would be removed from the boxhead in Table H–28 in § 1910.110.

Subpart N—[Amended]

12. The authority citation for Subpart N of Part 1910 would continue to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Sections 1910.177, 1910.178, 1910.179, 1910.183, 1910.184, 1910.189, and 1910.190 also issued under 29 CFR Part 1911.

13. Paragraph (c)(2) of § 1910.178 would be revised to read as follows:

§ 1910.178 Powered industrial trucks.

* * * * *

(c) * * *

(2) For specific areas of use, see Table N–1 which tabulates the information contained in this section. References are to the corresponding classification as used in Subpart S of this part.

* * * * *

14. Paragraph (g)(1)(i) of § 1910.179 would be revised to read as follows:

§ 1910.179 Overhead and gantry cranes.

* * * * *

(g) *Electric equipment*—(1) *General.* (i) Wiring and equipment shall comply with Subpart S of this part.

* * * * *

15. Paragraph (j) of § 1910.180 would be revised to read as follows:

§ 1910.180 Crawler, locomotive, and truck cranes.

* * * * *

(j) *Operations near overhead lines.* For operations near overhead electric lines, see § 1910.333(c)(3).

16. Entire paragraph (j)(5) of §1910.181 would be revised to read as follows:

§ 1910.181 Derricks.

* * * * *

(j) * * *

(5) *Operations near overhead lines.* For operations near overhead electric lines, see § 1910.333(c)(3).

* * * * *

Subpart Q—[Amended]

17. The authority citation for Subpart Q of Part 1910 would be revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Section 1910.252 also issued under 29 CFR Part 1911.

18. Paragraph (a)(6)(iv)(*d*)(*2*) of § 1910.252 would be revised to read as follows:

§ 1910.252 Welding, cutting, and brazing.

(a) * * *

(6) * * *

(iv) * * *

(*d*) * * *

(*2*) Wiring and electric electric equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of Subpart S of this Part for Class I, Division 2 locations.

* * * * *

Subpart R—[Amended]

19.The authority citation for Subpart R of Part 1910 would be revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.274, and 1910.275 also issued under 29 CFR Part 1911.

20. Paragraphs (g)(1)(iv) and (k)(16) of § 1910.261 would be revised to read as follows:

§ 1910.261 Pulp, paper, and paperboard mills.

* * * * *

(g) * * *

(1) * * *

(iv) Electric equipment shall be of the explosion-proof type, in accordance with the requirements of Subpart S of this part.

* * * * *

(k) * * *

(16) *Grounding.* All calender stacks and spreader bars shall be grounded as protection against shock induced by static electricity in accordance with Subpart S of this part.

* * * * *

§ 1910.265 [Amended]

21. Paragraph (c)(12) of § 1910.265 would be removed.

§ 1910.266 [Amended]

22. Paragraph (c)(6)(xxii) of § 1910.266 would be removed.

Subpart S—[Amended]

23. The authority citation for Subpart S of Part 1910 would be revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

§ 1910.304 [Amended]

24. Entire paragraph (b)(1) of § 1910.304 would be removed.

25. Sections 1910.331 through 1910.335 would be added to Subpart S to read as follows:

Safety-Related Work Practices

§ 1910.331 Scope.

(a) *Covered work by both qualified and unqualified persons.* The provisions of §§ 1910.331 through 1910.335 cover electrical safety-related work practices for both qualified and unqualified persons working on, near, or with the following installations:

(1) *Premises wiring.* Installations of electric conductors and equipment within or on buildings or other structures, and on other premises such as yards, carnival, parking, and other lots, and industrial substations;

(2) *Wiring for connection to supply.* Installations of conductors that connect to the supply of electricity; and

(3) *Other wiring.* Installations of other outside conductors on the premises.

(4) *Optical fiber cable.* Installations of optical fiber cable where such installations are made along with electric conductors.

(b) *Other covered work by unqualified persons.* The provisions of §§ 1910.331 through 1910.335 also cover work performed by unqualified persons, on, near, or with the installations listed in paragraphs (c)(1) through (c)(4) of this section.

(c) *Excluded work by qualified persons.* The provisions of §§ 1910.331 through 1910.335 do not apply to work performed by qualified persons on or directly associated with the following installations:

(1) *Generation, transmission, and distribution installations.* Installations for the generation, control, transformation, transmission, and distribution of electric energy (including communication and metering) located in buildings used for such purposes or located outdoors.

Note.—Work associated with installations of utilization equipment used for other purposes (such as installations which are in office buildings, warehouses, garages, machine shops, recreational buildings, or other utilization systems and which are not an integral part of a generating plant, substation, or control center) is covered under paragraph (a) (1) of this section.

(2) *Communications installations.* Installations of communication equipment to the extent that the work is covered under § 1910.268.

(3) *Installations in vehicles.* Installations in ships, watercraft, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(4) *Railway installations.* Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations of railways used exclusively for signaling and communication purposes.

§ 1910.332 Training.

(a) *Scope.* The training requirements contained in this section apply to employees in occupations listed in Table S–4. The training requirements in this section also apply to other employees who may reasonably be expected to face a risk of injury due to electric shock or other electrical hazards greater than or equal to the risk faced by employees in occupations listed in Table S–4.

(b) *Content of training*—(1) *Practices addressed in this standard.* Employees shall be trained in and familiar with the safety-related work practices required by §§ 1910.331 through 1910.335 that pertain to their respective job assignments.

(2) *Additional requirements for unqualified persons.* Employees who are covered by paragraph (a) of this section but who are not qualified persons shall also be trained in and familiar with any electrically related safety practices not specifically addressed by §§ 1910.331 through 1910.335 but which are necessary for their safety.

(3) *Additional requirements for qualified persons.* Qualified persons, i.e., those permitted to work on or near exposed energized parts, shall at a minimum be trained in and familiar with:

(i) The skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment,

(ii) The skills and techniques necessary to determine the nominal voltage of exposed live parts, and

(iii) The clearance distances specified in § 1910.333(c) and the corresponding voltages to which the qualified person will be exposed.

Note 1: For the purposes of §§ 1910.331 through 1910.335, a person must have this training in order to be considered a qualified person.

Note 2: Qualified persons who work on energized equipment involving either direct contact or contact by means of tools or materials must also have the training needed to meet § 1910.333(c)(2).

(c) *Type of training.* The training required by this section shall be of the classroom or on-the-job type. The degree of training provided shall be determined by the risk to the employee.

TABLE S–4.—TYPICAL OCCUPATIONAL CATEGORIES OF EMPLOYEES FACING A HIGHER THAN NORMAL RISK OF ELECTRICAL ACCIDENTS

Occupation
Electricians.
Mechanics and repairers.
Electrical and electronic technicians.
Electrical and electronic equipment assemblers.
Stationary engineers.
Material handling equipment operators.
Electrical and electronic engineers.
Blue collar supervisors.
Welders.
Riggers and roustabouts.

§ 1910.333 Selection and use of work practices.

(a) *General.* Safety-related work practices shall be employed to prevent electric shock or other injuries resulting from either direct or indirect electrical contacts, when work is performed near or on equipment or circuits which are or may be energized. The specific safety-related work practices shall be consistent with the nature and extent of the associated electrical hazards.

(1) *Deenergized parts.* Live parts to which an employee may be exposed shall be deenergized before the employee works on or near them, unless the employer can demonstrate that deenergizing introduces additional or increased hazards or is infeasible due to equipment design or operational limitations.

Note 1: Examples of increased or additional hazards include interruption of life support equipment, shutdown of hazardous location ventilation equipment, or removal of illumination for an area.

Note 2: Work on or near deenergized parts is covered by paragraph (b) of this section.

(2) *Energized parts.* If the exposed live parts are not deenergized (i.e., for reasons of increased or additional hazards or infeasibility), then other safety-related work practices shall be used to protect employees who may be exposed to the electrical hazards involved. Such work practices shall protect employees against contact with energized circuit parts directly with any part of their body or indirectly through some other conductive object. The work practices that are used shall be suitable for the conditions under which the work is to be performed and for the voltage level of the exposed electric conductors or circuit parts. Specific work practice requirements are detailed in paragraph (c) of this section.

(b) *Working on or near exposed deenergized parts*—(1) *Application.* This paragraph applies to work on exposed deenergized parts or near enough to them to expose the employee to any electrical hazard they present. Conductors and parts of electric equipment that have been deenergized but have not been locked out or tagged in accordance with paragraph (b) of this section shall be treated as energized parts, and paragraph (c) of this section applies to work on or near them.

(2) *Lockout and tagging.* While any employee is exposed to contact with parts of fixed electric equipment or circuits which have been deenergized, the circuits energizing the parts shall be locked out or tagged or both in accordance with the requirements of this paragraph. The requirements shall be followed in the order in which they are presented (i.e., paragraph (b) (2) (i) first, then paragraph (b) (2) (ii), etc.).

Note: As used in this section, fixed equipment refers to equipment fastened in place or connected by permanent wiring methods.

(i) *Deenergizing equipment.* (A) Safe procedures for deenergizing circuits and equipment shall be determined before circuits or equipment are deenergized.

(B) The circuits and equipment to be worked on shall be disconnected from all electric energy sources. Control circuit devices, such as push buttons, selector switches, and interlocks, may not be used as the sole means for deenergizing circuits or equipment. Interlocks for electric equipment may not be used as a substitute for lockout and tagging procedures.

(C) Stored electric energy which might endanger personnel shall be released. Capacitors shall be discharged and high capacitance elements shall be short-circuited and grounded, if the stored electric energy might endanger personnel.

Note: If the capacitors or associated equipment are handled in meeting this requirement, they shall be treated as energized.

(ii) *Application of locks and tags.* (A) A lock and a tag shall be placed on each disconnecting means used to deenergize circuits and equipment on which work is to be performed, except as provided in paragraphs (b) (2) (ii) (C) and (b) (2) (ii) (D) of this section. The lock shall be attached so as to prevent persons from operating the disconnecting means unless they resort to undue force or the use of tools.

(B) Each tag shall contain a statement prohibiting unauthorized operation of the disconnecting means and removal of the tag.

(C) If a lock cannot be applied, or if the employer can demonstrate that tagging procedures will provide safety equivalent to that of a lock, a tag may be used without a lock. In such cases, the following additional requirements shall be met:

(*1*) The tags shall be of a distinctive, employer-standardized design that clearly prohibits unauthorized energizing of the circuits and removal of the tag.

(*2*) A tag may not be used without an additional safety measure such as the removal of an isolating circuit element, blocking of a controlling switch, or opening of an extra disconnecting device.

(*3*) All persons who have access to controlling devices shall be trained in and familiar with the employer's tagging procedures.

(D) A lock may be placed without a tag only under the following conditions:

(*1*) Only one circuit or piece of equipment is deenergized, and

(*2*) The lockout period does not extend beyond the work shift, and

(*3*) Affected employees are familiar with this procedure.

(iii) Verification of deenergized condition. The requirements of this paragraph shall be met before any circuits or equipment can be considered and worked as deenergized.

(A) A qualified person shall operate the equipment operating controls or otherwise verify that the equipment cannot be restarted.

(B) A qualified person shall use test equipment to test the circuit elements

and electrical parts of equipment to which employees will be exposed and shall verify that the circuit elements and equipment parts are deenergized. The test shall also determine if any energized condition exists as a result of inadvertently induced voltage or unrelated voltage backfeed even though specific parts of the circuit have been deenergized and presumed to be safe. If the circuit to be tested is over 600 volts, nominal, the test equipment shall be checked for proper operation immediately before and immediately after this test.

(iv) *Reenergizing equipment.* These requirements shall be met, in the order given, before circuits or equipment are re-energized, even temporarily.

(A) A qualified person shall conduct tests and visual inspections, as necessary, to verify that all tools, electrical jumpers, shorts, grounds, and other such devices have been removed, so that the circuits and equipment can be safely energized.

(B) All affected employees shall be notified to stay clear of circuits and equipment.

(C) Locks and tags shall be removed.

(D) There shall be a visual determination that all employees are clear of the circuits and equipment.

(3) *Interlocks.* Only qualified persons following the requirements of paragraph (c) of this section may defeat electrical interlocks, and then only temporarily while work is being performed on the equipment. The interlock system shall be returned to its operable condition when this work is completed.

(c) *Working on or near exposed energized parts.*—(1) *Application.* This paragraph applies to work performed on exposed live parts (involving either direct contact or contact by means of tools or materials) or near enough to them for employees to be exposed to any hazard they present.

(2) *Work on energized equipment.* Only qualified persons may work on electric circuit parts or equipment that have not been deenergized under the procedures of paragraph (b) of this section. Such persons shall be capable of working safely on energized circuits and shall be familiar with the proper use of special precautionary techniques, personal protective equipment, insulating and shielding materials, and insulated tools.

(3) *Overhead lines.* If work is to be performed near overhead lines, the lines shall be deenergized and grounded, or other protective measures shall be provided before work is started. If the lines are to be deenergized, arrangements shall be made with the person or organization that operates or controls the electric circuits involved to deenergize and ground them. If protective measures are provided such as guarding, isolating, or insulating, these precautions shall prevent employees from contacting such lines directly with any part of their body or indirectly through conductive materials, tools, or equipment.

(i) *Unqualified persons.* (A) When an unqualified person is working in an elevated position near overhead lines, the location shall be such that the person and the longest conductive object he or she may contact cannot come closer to any unguarded, energized overhead line than the following distances:

(*1*) For voltages to ground 50kV or below—10 ft. (305 cm);

(*2*) For voltages to ground over 50kV—10 ft. (305 cm) plus 4 in. (10 cm) for every 10kV over 50kV.

(B) When an unqualified person is working on the ground in the vicinity of overhead lines, the person may not bring any conductive object closer to unguarded, energized overhead lines than the distances given in paragraph (c)(3)(i)(A) of this section.

Note: For voltages normally encountered with overhead power lines, objects which do not have an insulating rating for the voltage involved are considered to be conductive.

(ii) *Qualified persons.* When a qualified person is working in the vicinity of overhead lines, whether in an elevated position or on the ground, the person may not approach or take any conductive object without an approved insulating handle closer to exposed energized parts than shown in Table S–5 unless:

(A) The person is insulated from the energized part (gloves or gloves with sleeves rated for the voltage involved are considered to be insulation of the person from the energized part on which work is performed), or

(B) The energized part is insulated from any other conductive object at a different potential and from the person, or

(C) The person is insulated from all conductive objects at a potential different from the energized part.

TABLE S–5.—ALTERNATING CURRENT—APPROACH DISTANCES

Voltage range (phase to phase)	Minimum approach distance
300V and less	(1)
Over 300V, not over 750V.	1 ft. 0 in. (30.5 cm).
Over 750V, not over 2kV.	1 ft. 6 in. (46 cm).
Over 2kV, not over 15kV.	2 ft. 0 in. (61 cm).
Over 15kV, not over 37kV.	3 ft. 0 in. (91 cm).
Over 37kV, not over 87.5kV.	3 ft. 6 in. (107 cm).
Over 87.5kV, not over 121kV.	4 ft. 0 in. (122 cm).
Over 121kV, not over 140kV.	4 ft. 6 in. (137 cm).

[1] Avoid contact.

(iii) *Vehicular and mechanical equipment.* (A) Any vehicle or mechanical equipment capable of having parts of its structure elevated near energized overhead lines shall be operated so that a clearance of 10 ft. (305 cm) is maintained. If the voltage is higher than 50kV, the clearance shall be increased 4 in. (10 cm) for every 10kV over that voltage. However, under any of the following conditions, the clearance may be reduced:

(*1*) If the vehicle is in transit with its structure lowered, the clearance may be reduced to 4 ft. (122 cm).

(*2*) If insulating barriers are installed to prevent contact with the lines, and if the barriers are rated for the voltage of the line being guarded and are not a part of or an attachment to the vehicle or its raised structure, the clearance may be reduced to a distance within the designed working dimensions of the insulating barrier.

(*3*) If the equipment is an aerial lift insulated for the voltage involved, and if the work is performed by a qualified person, the clearance may be reduced to the distance given in Table S–5.

(B) Employees standing on the ground may not contact the vehicle or mechanical equipment or any of its attachments, unless:

(*1*) The employee is using protective equipment rated for the voltage; or

(*2*) The equipment is located so that no part of its structure can come closer to the line than permitted in paragraph (c)(3)(iii) of this section.

(C) If any vehicle or mechanical equipment capable of having parts of its structure elevated near energized overhead lines is intentionally grounded, employees working on the ground near the point of grounding may not stand at the grounding location whenever there is a possibility of overhead line contact.

Additional precautions, such as the use of barricades or insulation, shall be taken to protect employees from hazardous ground potentials, depending on earth resistivity and fault currents, which can develop within the first few feet outward from the grounding point.

(4) *Illumination.* (i) Employees may not enter spaces containing exposed energized parts, unless illumination is provided to enable the employees to perform the work safely.

(ii) Where lack of illumination or an obstruction precludes observation of the work to be performed, employees may not perform tasks near exposed energized parts. Employees may not reach blindly into areas which may contain energized parts.

(5) *Confined or enclosed work spaces.* When working in confined or enclosed spaces (such as manholes or vaults) that contain exposed energized parts, employees shall take precautions (such as the use of protective shields, protective barriers, or insulating materials) to avoid inadvertent contact with these parts. Doors, hinged panels and the like shall be secured to prevent their swinging into an employee and causing the employee to contact exposed energized parts.

(6) *Conductive materials and equipment.* Conductive materials and equipment that are in contact with any part of an employee's body shall be handled in a manner that will prevent them from contacting exposed energized conductors or circuit parts. If employees handle long dimensional conductive objects (such as ducts and pipes) in areas with exposed live parts, the employer shall institute work practices which will minimize the hazard.

(7) *Portable ladders.* Portable metal ladders and ladders with longitudinal metallic reinforcement may not be used wherever the employee might contact exposed energized parts.

(8) *Conductive apparel.* Conductive articles of jewelry and clothing (such as watch bands, bracelets, rings, key chains, necklaces, metalized aprons, cloth with conductive thread, or metal headgear) may not be worn if they might contact exposed energized parts. The contact hazard may be eliminated if such articles are rendered nonconductive by covering, wrapping, or other insulating means.

(9) *Housekeeping duties.* Where live parts present an electrical contact hazard, employees may not perform housekeeping duties at such close distances to the parts that there is a possibility of contact, unless adequate safeguards (such as insulating equipment or barriers) are provided. Electrically conductive cleaning materials (including conductive solids such as steel wool, metalized cloth, and silicon carbide as well as conductive liquid solutions) may not be used in proximity of energized parts unless procedures are followed which will prevent electrical contact.

§ 1910.334 Use of equipment.

(a) *Portable electric equipment.* This paragraph applies to the use of cord- and plug-connected equipment, including flexible cord sets (extension cords).

(1) *Handling.* Portable equipment shall be handled in a manner which will not cause damage. Flexible electric cords connected to equipment may not be used for raising or lowering the equipment. Flexible cords may not be fastened with staples or otherwise hung in such a fashion as to damage the outer jacket or insulation.

(2) *Visual inspection.* (i) Portable cord- and plug-connected equipment and flexible cord sets (extension cords) shall be visually inspected before use on any shift for external defects (such as loose parts, deformed and missing pins, or damage to outer jacket or insulation) and for evidence of possible internal damage (such as pinched or crushed outer jacket). Cord- and plug-connected equipment and flexible cord sets (extension cords) which remain connected once they are put in place and are not exposed to damage need not be visually inspected until they are relocated.

(ii) If there is a defect or evidence of damage that might expose an employee to injury, no employee may use the defective or damaged item until necessary repairs and tests have been made.

(iii) When an attachment plug is to be connected to a receptacle (including any on a cord set), the relationship of the plug and receptacle contacts shall first be checked to ensure that they are of mating configurations.

(3) *Grounding-type equipment.* (i) A flexible cord used with grounding-type equipment shall contain an equipment grounding conductor.

(ii) Attachment plugs and receptacles may not be connected or altered in a manner which would prevent proper continuity of the equipment grounding conductor at the point where plugs are attached to receptacles. Additionally, these devices may not be altered to allow the grounding pole of a plug to be inserted into slots intended for connection to the current-carrying conductors.

(iii) Adapters which interrupt the continuity of the equipment grounding connection may not be used.

(4) *Conductive work locations.* Portable electric equipment and flexible cords used in highly conductive work locations (such as those inundated with water or other conductive liquids), or in job locations where employees are likely to contact water or conductive liquids, shall be approved for those locations.

(5) *Connecting attachment plugs.* (i) Employees' hands may not be wet when plugging and unplugging flexible cords and cord- and plug-connected equipment.

(ii) Locking-type connectors shall be properly secured after connection.

(b) *Electric power and lighting circuits*—(1) *Routine opening and closing of circuits.* Load rated switches, circuit breakers, or other devices specifically designed as disconnecting means shall be used for the routine opening, reversing, or closing of circuits under load conditions. Nonloadbreak cable connectors, fuses, terminal lugs, and cable splice connections may not be used for such purposes.

(2) *Reclosing circuits after protective device operation.* After a circuit is deenergized by a circuit protective device, the circuit may not be manually reenergized until it has been determined that the equipment and circuit can be safely energized. The repetitive manual reclosing of circuit breakers or reenergizing circuits through replaced fuses is prohibited.

(3) *Overcurrent protection modification.* Overcurrent protection of circuits and conductors may not be modified, even on a temporary basis, beyond that allowed by § 1910.304(e).

(c) *Test instruments and equipment*—(1) *Use.* Only qualified persons may perform testing work on electric circuits or equipment.

(2) *Visual inspection.* Test instruments and equipment and all associated test leads, cables, power cords, probes, and connectors shall be visually inspected for external defects and damage before the equipment is used. If there is evidence of defects or damage that might expose an employee to injury, the defective or damaged item shall be removed from service until any necessary repairs and tests have been made.

(3) *Rating of equipment.* Test instruments and equipment and their accessories shall be rated for the circuits and equipment to which they will be connected and shall be designed for the environment in which they will be used.

(d) *Occasional use of flammable or ignitible materials.* When flammable or ignitible materials are occasionally

used, or when work practices may result in hazardous accumulations of suspended or layered combustible dust in locations not classified as hazardous under § 1910.307, electric equipment capable of releasing sufficient electric or thermal energy to ignite these materials or dust accumulations may not be energized unless measures are taken to prevent hazardous conditions from developing.

§ 1910.335 Safeguards for personnel protection.

(a) *Use of protective equipment*—(1) Personal protective equipment. (i) Employees working in areas where there are potential electrical hazards shall be provided with electrical protective equipment that is appropriate for the specific parts of the body to be protected and for the work to be performed.

Note.—Personal protective equipment requirements are contained in Subpart I of this part.

(ii) Protective equipment shall be maintained in a safe, reliable condition and shall be periodically inspected or tested.

(iii) If the insulating capability of protective equipment may be subject to damage during use, the insulating material shall be protected. (For example, an outer covering of leather is sometimes used for the protection of rubber insulating material.)

(iv) Employees shall wear nonconductive head protection wherever there is a danger of head injury from electric shock or burns due to contact with exposed energized parts.

(v) Employees shall wear protective equipment for the eyes or face wherever there is danger of injury to the eyes or face from electric arcs or flashes or from flying objects resulting from electrical explosion.

(2) *General protective equipment and tools.* (i) When working near exposed energized conductors or circuit parts, employees shall use insulated tools or handling equipment if the tools or handling equipment might might make contact with such conductors or parts. If the insulating capability of insulated tools or handling equipment is subject to damage, the insulating material shall be protected.

(A) Fuse handling equipment, insulated for the circuit voltage, shall be used to remove or install fuses when the fuse terminals are energized.

(B) Ropes and handlines used near exposed energized parts shall be nonconductive.

(ii) Protective shields, protective barriers, or insulating materials shall be used to protect employees from shock, burns, or other electrically related injuries while they are working near exposed energized parts which might be accidentally contacted or where dangerous electric heating or arcing might occur. When normally enclosed live parts are exposed for maintenance or repair, they shall be guarded to protect unquilified persons from contact with the live parts.

(b) *Alerting techniques.* The following alerting techniques shall be used to warn and protect employees from hazards which could cause injury due to electric shock, burns, or failure of electric equipment parts:

(1) *Safety signs and tags.* Safety signs, safety symbols, or accident prevention tags shall be used where necessary to warn employees about electrical hazards which may endanger them, as required by § 1910.145.

(2) *Barricades.* Barricades shall be used in conjunction with safety signs where it is necessary to prevent or limit employee access to work areas exposing employees to uninsulated energized conductors or circuit parts. Conductive barricades may not be used where they might cause an electrical contact hazard.

(3) *Attendants.* If signs and barricades do not provide sufficient warning and protection from electrical hazards, an attendant shall be stationed to warn and protect employees.

26. The numbered paragraph designations (1) through (137) would be removed from the definitions in paragraph (a) of § 1910.399.

27. Reserved paragraphs (b), (c), and (d), of § 1910.399 would be removed, and both the paragraph (a) designation and the heading "Definitions applicable to §§ 1910.302 through 1910.330" would be removed from paragraph (a) of § 1910.399.

28. A definition of "may" between the definitions of "location" and "medium voltage cable" in § 1910.399 would be added to read as follows:

§ 1910.399 Definitions applicable to this subpart.

* * * * *

May. If a discretionary right, privilege, or power is conferred, the word "may" is used. If a right, privilege, or power is abridged or if an obligation to abstain from acting is imposed, the word "may" is used with restrictive "no," "not," or "only." (E.g., no employer may * * *; an employer may not * * *; only qualified persons may * * *.)

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Part III

Department of Education

34 CFR Part 674

Perkins Loan Program; Final Regulations

34 CFR Part 673

Income Contingent Loan Program Demonstration Project; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 674

Perkins Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends Subpart C of the regulations for the Perkins Loan Program (formerly the National Direct Student Loan Program). The regulations are amended as a result of the Secretary's review of current regulations. These regulations are being amended to streamline the loan collection process, reorganize current regulations, and increase the effectiveness of current collection efforts in light of the Department's experience and the comments of the General Accounting Office regarding institutional loan management practices.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, with the exception of §§ 674.42, 674.43, 674.45, 674.47, 674.48, 674.49 and 674.50. Sections 674.42, 674.43, 674.45, 674.47, 674.48, 674.49, and 674.50 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry, Gail Cornish, or Kathy Gause, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 4018) Washington, DC 20202. Telephone number (202) 732–4490.

SUPPLEMENTARY INFORMATION: The Higher Education Amendments of 1986 (Pub. L. 99–498) changed the name of the National Direct Student Loan Program to the Perkins Loan Program. Under the Perkins Loan Program, title IV–E of the Higher Education Act of 1965, as amended (HEA), institutions of higher education may receive Federal funds to make loans to students. Subpart C of the Perkins Loan Program regulations requires each institution which participates in the program to inform borrowers of their rights and responsibilities, to attempt to collect from borrowers, and, under certain conditions, to sue defaulted borrowers.

There has been a growing concern about the number of borrowers who have failed to repay their Perkins Loans. Studies have indicated that institutions need to strengthen collection efforts in order to decrease the number of borrowers who default on their loans. The Secretary has amended Subpart C of the Perkins Loan regulations in an effort to strengthen the due diligence requirements. These regulations reflect changes made by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. 99–272, and adopted in the Higher Education Amendments of 1986, Pub. L. 99–498.

The following is a discussion of these final regulations. A summary of the comments received and the Department's response to those comments is attached as an appendix to these regulations.

Revisions to the Notice of Proposed Rulemaking

Only a few significant changes have been made to the Notice of Proposed Rulemaking (NPRM) published on February 26, 1985, 50 FR 7672.

Section 674.41 Due diligence—general requirements

- The Secretary has changed the time for billing the endorser of a promissory note, if there has been no satisfactory response from the borrower, from after the first overdue notice to after the final demand letter.

Section 674.42 Contact with the borrower

- The disclosures required under this section are revised slightly to reflect provisions regarding late charges and collection costs enacted in the recent amendments.
- Section 463A(a)(7) of the HEA was amended to include a requirement that the borrower be advised of the potential liability for collection costs in the event of default; that section already required disclosure of potential late charges imposed pursuant to section 464(c)(1)(H).
- Section 674.42 of these regulations has been revised to implement these expanded disclosure requirements regarding late charges and collection costs on defaulted loans. Corresponding changes have been made in §§ 674.43(b), 674.45(e), 674.47 (a) and (b).

Section 674.43 Billing procedures

- The Secretary has deleted the requirement that institutions must send final demand letters by certified mail.
- Section 464(c)(1)(H) of the HEA, as amended recently, increased the late charge to be assessed for missed installment payments for loans made for periods of enrollment beginning after January 1, 1986 to an amount, set in accordance with regulations, not to exceed 20 percent of the monthly payment. Institutions are permitted by revised section 464(c)(4) of the HEA to capitalize the late charge on the day after the installment due date, or to demand that the late charge be paid on or before the due date of the next installment. Consistent with the intent of this amendment, the final rule requires the institution to assess a late charge, and allows the institution discretion in the manner in which it calculates the amount of the charge, up to the statutory ceiling of 20 percent of the late payment.
- The Secretary has expanded this section to clarify the manner in which Perkins Loan funds must be deposited. These funds must be invested either in interest-bearing insured or collateralized bank accounts, or in low-risk income-producing securities such as obligations issued or guaranteed by the United States, and the institution must exercise the level of care in making these investments required of a fiduciary. The institution may deduct from the interest earned any charges directly related to the deposit of the funds in interest-bearing accounts.
- To provide adequate warning and notice of acceleration of a loan to the debtor, the Secretary has added the requirement that an institution that accelerates a loan must send the borrower both a notice of its intent to accelerate the debt and a second notice on or after the date of acceleration containing the actual date of the acceleration. The warning may be included in the final demand letter and the notice of actual date of accelaration, in subsequent correspondence.

Section 674.45 Collection procedures

- The proposed rule required an institution to select credit bureaus to receive information regarding defaulted loan accounts on the basis of the geographic area from which the institution drew its student body. The proposal was intended to ease the burden on the institution by assuming that a major portion of these students would return to that general area.
- Some schools can identify specific areas to which these students have relocated, and may wish to select bureaus that serve those areas instead. Section 674.50 has been revised to permit the institution to select reporting bureaus on the basis of either current graduate residence or drawing area.
- The Secretary has extended from 9 months to 12 months the period during

which the institution may permit a collection firm to attempt to bring a defaulted account into regular repayment status.

If the institution or the firm it engages fails to convert the defaulted account to regular repayment status after 12 months, the institution is required to litigate or make a second effort to collect the account in accordance with precedures described in these regulations.

• New section 484A of the Higher Education Act, added by Pub. L. 99–272, clarifies the consequences of default as subjecting the defaulting borrower to liability for reasonable collection costs, in addition to other charges specified in the law, such as late charges. The statute makes this liability effective without regard for any contrary provision of State law.

• These regulations strongly encourage, and in some cases require, the use of collection firms to attempt recovery from those debtors who have not responded to the institution's own efforts. Collection firms commonly charge institutions on a contingent fee basis; the Department has in the past encouraged, but not required, an institution to attempt to recover this charge from the borrower. Courts in some States limit the ability of a creditor to recover from the debtor the full amount of a contingent fee charge; however, these limitations, as a matter of Federal law, no longer apply to the collection of loans made under the Title IV HEA programs, including the NDSL and Perkins Programs. Section 484A(b) of the HEA specifically provides that "notwithstanding any provision of State law to the contrary," the debtor is liable for "reasonable collection costs." By specifically preempting *any* State law to the contrary, this Federal statutory authority displaces any State law that bars recovery from the debtor of collection costs is general. Furthermore, this authority also preempts any State law—including case law—that regards contingent fee charges as not "reasonable collection costs," and bars their recovery from the debtor. The determination of what constitutes "reasonable collection costs" for enforcement of Title IV loan obligations, including NDSL and Perkins program loans, is now a matter of Federal law, and Federal law and policy clearly support the imposition on the defaulting borrower of contingent fees charged for collecting student loans.

Federal policy with regard to collection of contingent fee charges is set forth in the statutes and regulations governing the collection activities of Federal agencies, including those of the Department with regard to the defaulted loans it holds. Federal law specifically authorizes Federal agencies to use collection contractors to collect their debts, 31 U.S.C. 3718, and to impose on delinquent debtors the costs of collecting those debts. 31 U.S.C. 3717(e). Congress clearly understood that these contractors would be paid on a contingent fee basis, Sen. Rep. No. 378, 97th Cong. 2d Sess. 19, 30, 31 (1982), and the Department of Justice and the General Accounting Office, in regulations governing Federal debt collection activity, direct agencies to charge debtors with the costs of collecting delinquent accounts, including the cost of using "a private debt collection contractor." 4 CFR 102.13(d). This authority to recover contingent fee charges from defaulters whose loans are held by the Department clearly establishes that under Federal law and policy, "collection costs" include contingent fees charged to collect any defaulted Title IV student loan, whether held by the Department or an institution.

The determination of what constitutes a "reasonable" collection cost is also governed by Federal law; based on the factors addressed in these statutes and regulations, the Secretary believes that this determination must be made on the basis of what is reasonable from the perspective of the holder of the federally financed student loan obligation; if the cost is reasonably incurred by the holder, the full amount of that cost is a "reasonable collection cost" within the meaning of section 484A(b) and recoverable from the debtor. Under this norm, the Secretary considers the full amount of contingent fees charged the institution to be reasonable collection costs for several reasons. First, the Secretary has determined, based on the Department's experience with its own debts and its experience with debt collection in the Perkins program, that the protection of the substantial Federal investment in the institution's student loan receivables warrants the use of commercial debt collection contractors, which provide added staff and expertise that many institutions lack to handle more difficult accounts. This resource is generally available only under a contingent fee contract; therefore, contingent fee costs are *reasonable* collection costs because they must be incurred to implement the Department's determination that collection firm services are necessary to protect the Fund.

Second, the contingent fee agreements reached by Federal agencies are the result of competitive selection process, as Congress directed; the resulting fee charges are thus reasonable when measured by the standard set by Congress. The Secretary therefore considers the full amount of a contingent fee resulting from a bona fide attempt by the institution to secure competitive rates for these services, by formal bidding procedures or other appropriate measures, to be a "reasonable" collection cost, as that term is used in section 484A(b).

Third, the Secretary considers contingent fees incurred in the manner descried here to be "reasonable" collection costs in light of the stage of delinquency and place in the collection process of loans on which they are incurred. These regulations direct institutions to work defaulted accounts through the billing cycle before engaging the more costly services of a collection firm. The debtor is given a reasonable opportunity to resolve the debt with the institution before the cost of the contingent fee is imposed, and the added cost of contingent fee liability is incurred by the institution only after less expensive means of collection have proven unsuccessful.

For these reasons, the Secretary concludes that regardless of any contrary provision of State law, Federal law authorizes institutions to charge debtors the full amount of reasonably-negotiated contingent fees charged to collect loans; moreover, to the extent that a debt collector seeks to recover these charges on behalf of the institution, this Federal preemption necessarily extends to its actions as agent of the institution with regard to these loans.

In the past, an institution that used a collection firm and intended to pass on to the debtor the cost incurred in paying the collection firm was directed to include in the promissory note a provision specifying that the amount charged the borrower would not exceed 25 percent of the outstanding principal and interest due on the loan. This direction was based on an interpretation by staff of the Federal Trade Commission that section 808 of the Fair Debt Collection Practices Act required a specific identification of the type and amount of such charges. The FTC has since revised this position, 45 FR 8027, March 7, 1986, and the Department has removed this provision from the model promissory note recently disseminated to the public for use for the 1987–88 award year.

Although institutions now have authority under section 484A to pass on the full amount of reasonable collection costs, they cannot do so where they have agreed in the promissory note to limit the amount charged the debtor.

Since 1981, many borrowers have received loans under promissory notes which contain the 25 percent limitation on liability for collection firm charges; these agreements limit the amount of the contingent fee which the institution may collect from the borrower to an amount which does not cover the cost typically incurred for collection firm services. In those instances in which a borrower who received advances under a promissory note which included the 25 percent limitation seeks new advances, however, the institution has an opportunity to remove this limitation. Under section 464(a)(1) an institution has the authority to establish the terms and conditions on which it will make loans to students, subject to limitations imposed by Department regulations.

The Secretary considers the securing of a borrower's agreement to pay all reasonable collection costs to be a singularly appropriate purpose for use of this institutional authority, and therefore the Secretary strongly encourages the institution to make new advances to a borrower whose note contains this 25 percent limitation, only if the borrower agrees that the terms of the new promissory note will apply to repayment of the funds previously advanced. The terms of the new note must include a general provision for payment of collection costs, as well as agreement to repay attorney fees incurred in collecting the loan.

The institution should list on the new promissory note the dates, amounts, and interests rates of those advances previously recorded on the old promissory note, secure the dated signature of the borrower as acknowledging the advances, and mark the old note to state clearly that the new note is substituted for the old note as the embodiment of the loan agreement. The same considerations obviously apply to the terms of any repayment agreements entered into by institutions with delinquent borrowers; such agreements should include comparable provisions for payment of late charges, collection costs, and attorney fees.

As with the treatment of costs incurred because of tardiness in making payments and imposed on the borrower as late charges, the institution has discretion to determine the amount of collection costs to be imposed on the borrower based on either the actual expenses incurred in handling that account, or on reasonably determined averages of costs it incurs handling similar loans in similar stages of delinquency. In either case, the institution should explain to the borrower the manner in which it calculates these costs, and be able to document the basis for the costs it assesses against the borrower. The latter is not a new program requirement; rather, the institution may now be called on to demonstrate to the borrower the same cost analysis it has previously used to support charges of these collection costs to the Fund. Collection costs not recovered from the borrower continue to be chargeable to the Fund, with certain limitations.

Section 674.46 Litigation procedures.

• The Secretary continues to believe that under certain circumstances, litigating accounts of as little as $200 is realistic and cost-effective. Current regulations require the institution to litigate when it determines that the debtor has resources sufficient to permit recovery of the amount owed on the loan. These final rules also require litigation when its cost does not exceed the amount recoverable from the debtor. To help finance this increased litigation responsibility, related changes have been made to § 674.47(e)(5) to permit the institution to charge to the Fund litigation costs, including attorney fees, in an amount not to exceed 50 percent of the amount of principal, interest and late charges collected.

The Secretary considers the benefits derived from the deterrent effect of litigation to warrant both the use of the Fund assets for these attorney fees, and the requirement that the institution, where necessary, pay any remainder not chargeable to the Fund.

Moreover, to increase the return to the Fund, particularly in cases in which litigation cost amounts are large in relation to the loan amount, these regulations require the institutions to attempt to recover all collection costs, including attorney fees, from the debtor, to the full extent permitted under applicable Federal and State law. As discussed earlier, this may require changes to the promissory note used.

Section 674.47 Costs chargeable to the Fund.

• The Secretary has revised the regulations to provide that the cost of credit bureau participation may be charged to the Fund in accordance with § 674.47(e)(2).

• The Secretary has revised the regulations to permit the institution to charge the Fund reasonable costs of successful address search.

• The Secretary continues to believe that, to the extent possible, the institution must shift the burden of collection costs from the taxpayer to the defaulting borrower, and the liability of the borrower for these costs is now clear as a matter of Federal law. 20 U.S.C. 1091a. However, the Secretary is aware that the ability to waive some or all collection costs (and late charges) is a valuable collection tool, and has modified the rule to allow the institution flexibility to waive collection costs; the institution may waive collection from the borrower of the same fraction of the accrued collection costs as the fraction of the past-due outstanding balance on the account that the debtor repays within thirty days of the date the debtor enters into a repayment agreement with the institution. Thus, if the defaulted borrower enters a new written repayment agreement with the institution, and repays one-half of the past-due outstanding principal and interest balance on his or her loan within thirty days of the date of that agreement, the institution may waive the collection on one-half of the collection costs that have been incurred through the date of, and pertaining to, that payment. Payment in full can permit a full waiver of collection costs. To the extent that these accrued costs have been waived under this rule, the institution may charge them against the Fund, subject to the limitation otherwise applicable under § 674.47.

These fund regulations retain the provisions of the proposed rule permitting an institution to charge the Fund up to 50 percent of the amount recovered in a second collection effort. The Secretary will consider whether this level is necessary to protect the Fund, and may propose that this limit be lowered in the future.

Section 674.48 Use of contractors to perform billing and collection or other program activities.

• Based on comments received, the Secretary has revised proposed § 674.48 (c)(1) and (d)(2) to reduce the number of items to be reported and to change the monthly statement to a quarterly statement. Quarterly statements from contractors must report the amount collected from the borrower, and any changes in the borrower's name, address, telephone number, and Social Security number.

• These rules require institutions to employ only bonded billing and collection firms to carry out billing and collection procedures. Institutions themselves are required to obtain and keep current adequate fidelity bond coverage in order to protect the Government's interest in the title IV funds they receive; the Secretary believes that it is reasonable to require institutions to assure the same sort of protection for the Federal and

institutional interest from third parties who handle loan funds. As under the NPRM, those collection firms which do not deduct their fees from borrower payments, and all billing firms, must be covered by a general fidelity bond or similar insurance coverage in an amount equal to the amount of repayments expected over a two-month period on accounts for which they are responsible. The final rule, however, permits the institution to allow collection firms to deduct their fees from repayments, if these firms meet higher bonding standards commensuate with the potential loss to the institution presented under that arrangement. If expected repayments exceed $100,000 over a two-month period, the institution must be named as beneficiary of the bond or policy; if less, the institution need not be the named beneficiary, but the amount of coverage must be large enough to avoid competition with other clients of the firms in the event of defalcation.

Section 674.49 Bankruptcy of borrowers

• Based on comments received, this section has been revised to present more clearly the actions required to protect the Fund's interest in the event of borrower recourse to bankruptcy. It is not the purpose of these regulations to attempt to set forth each provision of bankruptcy law that applies to student loan collection, and institutions must expect to retain counsel to handle enforcement of their loan accounts in bankruptcy. However, based on the comments and the Department's experience, the Secretary considers it appropriate to explain here those enforcement steps which institutions should be prepared to take in bankruptcy proceedings, the information they should consider in choosing whether or not to contest a bankruptcy, and the weight to be given to the cost of litigation. Moreover, because the regulations now permit institutions to charge to the Fund the costs of the litigation required in bankruptcy, it is appropriate to prescribe here the circumstances in which particular activities are reasonable and cost-effective.

Section 674.50 Assignment of defaulted loans to the United States

• Section 463 of the HEA has been amended to eliminate the requirement that a loan be in default for two years before an institution may assign it to the United States; if the borrower defaults on the loan, the institution may now assign a promissory note after following the procedures for a first collection effort as described in § 674.45 and litigation, if required under § 674.46.

• The Secretary has added the requirement that an institution shall include with any promissory note submitted for assignment the second acceleration notice containing the actual date on which the loan was accelerated.

• Under the proposed rule, institutions with default rates exceeding 10 percent were required to include proof of their collection activity on a loan with other documentation on a loan submitted to the Department for assignment. This provision was expressly based on the funding penalty threshold in effect at the time the proposed rule was published in 1985. The maximum default rate that an institution may have before suffering a funding penalty has been reduced to 7.5 percent by statutory and regulatory amendments in 1986. 20 U.S.C. 1087bb(f); 34 CFR 674.6a(c), 51 FR 28314, August 6, 1986. Because this requirement was intended to match the funding penalty threshold, the change in that threshold dictates a conforming change in this rule.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the enactment of COBRA and the Education Amendments of 1986 change certain provisions of law to be implemented in the proposed rules. These final regulations implement the new statutory provisions regarding the assessment of late charges on delinquent loans, collection costs on defaulted loans, and the assignment of defaulted loans to the Secretary. Since the regulations which incorporate these statutory changes merely implement provisions of the new law which Congress has already made effective, public comment could have no effect on the substance of these changes, and the Secretary finds that publication of a proposed rule regarding these provisions is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Paperwork Reduction Act of 1980

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC. 20503; Attention: James D. Houser.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Assessment of Educational Impact

In the Notice of Proposed Rulemaking the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 674

Education, Loan programs—education, Student aid, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.038 National Direct Student Loan Program)

Dated: November 24, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 674 of Title 34 of the Code of Federal Regulations as follows:

PART 674—[AMENDED]

1. The authority citation for Part 674 is revised to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429, unless otherwise noted.

2. Subpart C of Part 674 is revised to read as follows:

Subpart C—Due Diligence

Sec.

Subpart C—Due Diligence

§ 674.41 Due diligence—general requirements.

(a) *General.* Each institution shall exercise due diligence in collecting loans by complying with the provisions

in this subpart. In exercising this responsibility, each institution shall, in addition to complying with the specific provisions of this subpart—

(1) Keep the borrower informed, on a timely basis, of all changes in the program that affect his or her rights or responsibilities; and

(2) Respond promptly to all inquiries from the borrower or any endorser.

(b) *Due diligence with regard to endorser.* If a borrower does not respond satisfactorily to the final demand letter required in § 674.43(c)(2), an institution shall, in addition to pursuing the borrower, pursue recovery of the debt from any endorser using the steps described in this subpart.

(c) *Coordination of information.* An institution shall ensure that information available in its offices (including the admissions, business, alumni, placement, financial aid and registrar's offices) is provided to those offices responsible for billing and collecting loans, in a timely manner, as needed to determine—

(1) The enrollment status of the borrower;

(2) The expected graduation or termination date of the borrower;

(3) The date the borrower withdraws, is expelled or ceases enrollment on at least a half-time basis; and

(4) The current name, address, telephone number and Social Security number of the borrower.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.42 Contact with the borrower.

(a) *Exit interview.* (1) An institution shall conduct an exit interview with each borrower before he or she leaves the institution. If an individual interview is not feasible, the institution may conduct a group interview. During the interview the institution shall restate for the borrower the terms and outstanding balance of the loan held by the institution, and the borrower's duty to repay the loan in accordance with the repayment schedule. The institution shall explain to the borrower the consequences of defaulting including, at a minimum, possible referral to a collection firm, reporting to a credit bureau, and litigation. Furthermore, the institution shall explain the borrower's rights and responsibilities under the loan, including the following:

(i) The borrower's responsibility to inform the institution immediately of any change of name, address, telephone number, or Social Security number.

(ii) The borrower's right to deferment, cancellation or postponement of repayment, and the procedures for filing for those benefits.

(iii) The borrower's responsibility to contact the institution in a timely manner, before the due date of any payment he or she cannot make.

(2) An institution shall disclose the following information during the exit interview, and shall include it in the promissory note or in another written statement provided to the borrower:

(i) The name and the address of the institution to which the debt is owed and the name and address of the official or servicing agent to whom communications should be sent.

(ii) The name and the address of the party to which payments should be sent.

(iii) The estimated balance owed by the borrower on the loan held by the institution on the date on which the repayment period is scheduled to begin.

(iv) The stated interest rate on the loan.

(v) The repayment schedule for all loans covered by the disclosure including the date the first installment payment is due, and the number, amount, and frequency of required payments.

(vi) An explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan, and a statement that the borrower has the right to prepay all or part of the loan at any time without penalty.

(vii) A description of the charges imposed for failure of the borrower to pay all or part of an installment when due.

(viii) A description of any charges that may be imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or the institution to collect on the loan.

(ix) The total of interest charges which the borrower will pay on the loan pursuant to the projected repayment schedule.

(3) At the time of the exit interview the institution shall—

(i) Have the borrower sign the repayment schedule;

(ii) Provide a copy of the signed promissory note and the signed repayment schedule to the borrower; and

(iii) Retain signed copies of both the note and the repayment schedule in the institution's files.

(4) The institution shall contact a borrower promptly after it determines that the borrower either has not attended an exit interview that he or she was scheduled to attend or has already left the institution, and shall—

(i) Provide the borrower, either in person or by mail the information described in paragraphs (a) (1) and (2) of this section; and

(ii) Provide a copy of the note and two copies of the repayment schedule to the borrower and request that the borrower promptly sign and return one of the schedules to the institution.

(b) *Contact with the borrower during the initial and post deferment grace periods.* (1)(i) For loans with a nine-month initial grace period (loans made before October 1, 1980, and loans made for periods of enrollment beginning after June 30, 1987 to borrowers with no outstanding balance on any Defense, Direct or Perkins loan made to the borrower prior to July 1, 1987, the institution shall contact the borrower three times within the initial grace period.

(ii) For loans with a six-month initial or post deferment grace period (loans not described in paragraph (b)(1)(i) of this section), the institution shall contact the borrower twice during the grace period.

(2)(i) The institution shall contact the borrower for the first time 90 days after the commencement of any grace period. The institution shall at this time remind the borrower of his or her responsibility to comply with the terms of the loan and shall send the borrower the following information:

(A) The total amount remaining outstanding on the loan account, including principal and interest accruing over the remaining life of the loan.

(B) The date and amount of the next required payment.

(ii) The institution shall contact the borrower the second time 150 days after the commencement of any grace period. The institution shall at this time notify the borrower of the date and amount of the first required payment.

(iii) The institution shall contact a borrower with a nine-month initial grace period a third time 240 days after the commencement of the grace period, and shall then inform him or her of the date and amount of the first required payment.

(Authority: U.S.C. 424, 1087cc, 1087cc-1)

§ 674.43 Billing procedures.

(a) The term "billing procedures," as used in this subpart, includes that series of actions routinely performed to notify borrowers of payments due on their accounts, to remind borrowers when payments are overdue, and to demand payment of overdue amounts. An institution shall use the following billing procedures:

(1) If the institution uses a coupon payment system, it shall send the coupons to the borrower at least 30 days before the first payment is due.

(2) If the institution does not use a coupon system, it shall send to the borrower—

(i) A written notice giving the name and address of the party to which payments are to be sent and a statement of account at least 30 days before the first payment is due; and

(ii) A statement of account at least 15 days before the due date of each subsequent payment.

(b)(1) An institution shall send a first overdue notice within 15 days after the due date for a payment if the institution has not received—

(i) A payment;

(ii) A request for deferment; or

(iii) A request for postponement or for cancellation.

(2) Subject to § 674.47(a), the institution shall assess a late charge for loans made for periods of enrollment beginning on or after January 1, 1986, during the period in which the institution takes any steps described in this section to secure—

(i) Any part of an installment payment not made when due, or

(ii) A request for deferment, cancellation, or postponement of repayment on the loan that contains sufficient information to enable the institution to determine whether the borrower is entitled to the relief requested.

(3) The institution shall determine the amount of the later charge imposed for loans described in paragraph (b)(2) of this section based on either—

(i) Actual costs incurred for actions required under this section to secure the required payment or information from the borrower; or

(ii) The average cost incurred for similar attempts to secure payments or information from other borrowers.

(4) The institution may not require a borrower to pay late charges imposed under paragraph (b)(3) of this section in an amount, for each late payment or request, exceeding 20 percent of the installment payment most recently due.

(5) The institution—

(i) Shall determine the amount of the late or penalty charge imposed on loans not described in paragraph (b)(2) of this section in accordance with § 674.31(b)(5) (See Appendix E); and

(ii) May assess this charge only during the period described in paragraph (b)(2) of this section.

6) The institution shall notify the borrower of the amount of the charge it has imposed, and whether the institution—

(i) Has added that amount to the principal amount of the loan as of the first day on which the installment was due; or

(ii) Demands payment for that amount in full no later than the due date of the next installment.

(c) If the borrower does not satisfactorily respond to the first overdue notice, the institution shall continue to contact the borrower as follows, until the borrower makes satisfactory repayment arrangements or demonstrates entitlement to deferment, postponement, or cancellation:

(1) The institution shall send a second overdue notice within 30 days after the first overdue notice is sent.

(2) The institution shall send a final demand letter within 15 days after the second overdue notice. This letter must inform the borrower that unless the institution receives a payment or a request for deferment, postponement, or cancellation within 30 days of the date of the letter, it will refer the account for collection or litigation, and will report the default to a credit bureau.

(d) Notwithstanding paragraphs (b) and (c) of this section, an institution may send a borrower a final demand letter if the institution has not within 15 days after the due date received a payment, or a request for deferment, postponement, or cancellation, and if—

(1) The borrower's repayment history has been unsatisfactory, e.g., the borrower has previously failed to make payment(s) when due or to request deferment, postponement, or cancellation in a timely manner, or has previously received a final demand letter; or

(2) The institution reasonably concludes that the borrower neither intends to repay the loan nor intends to seek deferment, postponement, or cancellation of the loan.

(e)(1) An institution that accelerates a loan as provided in § 674.31 (i.e., makes the entire outstanding balance of the loan, including accrued interest and any applicable late charges, payable immediately) shall—

(i) Provide the borrower, at least 30 days before the effective date of the acceleration, written notice of its intention to accelerate; and

(ii) Provide the borrower on or after the effective date of acceleration, written notice of the date on which it accelerated the loan and the total amount due on the loan.

(2) The institution may provide these notices by including them in other written notices to the borrower, including the final demand letter.

(f) If the borrower does not respond to the final demand letter within 30 days from the date it was sent, the institution shall attempt to contact the borrower by telephone before beginning collection procedures.

(g)(1) An institution shall ensure that any funds collected as a result of billing the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.44 Address searches.

(a) If mail, other than unclaimed mail, sent to a borrower is returned undelivered, an institution shall take steps to locate the borrower. These steps must include—

(1) Reviews of records in all appropriate institutional offices;

(2) Reviews of telephone directories or inquiries of information operators in the locale of the borrower's last known address; and

(3) Use of the Department of Education's skip-tracing service.

(b) If an institution is unable to locate a borrower by the means described in paragraph (a) of this section, it shall—

(1) Use its own personnel to attempt to locate the borrower, employing and documenting efforts comparable to commonly accepted commercial skip-tracing practices; or

(2) Refer the account to a firm that provides commercial skip-tracing services.

(c) If the institution acquires the borrower's address or telephone number through the efforts described in this section, it shall use that new information to continue its efforts to collect on that borrower's account in accordance with the requirements of this subpart.

(d) If the institution is unable to locate the borrower after following the procedures in paragraphs (a) and (b) of this section, the institution shall make reasonable attempts to locate the borrower at least twice a year until—

(1) Litigation to collect the borrower's account is barred under the applicable statute of limitations;

(2) The account is assigned to the United States; or

(3) The account is written off under § 674.47(g).

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.45 Collection procedures.

(a) The term "collection procedures," as used in this subpart, includes that series of more intensive efforts, including litigation as described in § 674.46, to recover amounts owed from defaulted borrowers who do not respond satisfactorily to the demands routinely made as part of the institution's billing procedures. If a borrower does not satisfactorily respond to the final demand letter or the following telephone contact made in accordance with § 674.43(f), the institution shall—

(1) Report the defaulted account to a credit bureau, unless specifically prohibited by State law; and

(2)(i) Use its own personnel to collect the amount due; or

(ii) Engage a collection firm to collect the account.

(b)(1) An institution shall select one or more credit bureaus for its information referrals with due regard for the coverage provided by the bureau or bureaus. An institution may select a bureau which serves—

(i) The areas from which the major portion of its students was drawn; or

(ii) The areas in which all or a major portion of its alumni/ae now reside.

(2) An institution shall report, according to the reporting procedures of the bureau, any changes in account status to the bureau to which it reported the defaulted account, and shall respond promptly and accurately to any inquiry from any bureau regarding the information reported on the loan account.

(c)(1) If the institution, or the firm it engages, pursues collection activity for up to 12 months and does not succeed in converting the account to regular repayment status, or the borrower does not qualify for deferment, postponement, or cancellation on the loan, the institution shall either—

(i) Litigate; or

(ii) Make a second effort to collect the account as follows:

(A) If the institution first attempted to collect the account using its own personnel, it shall, unless specifically prohibited by State law, refer the account to a collection firm.

(B) If the institution first attempted to collect the account by using a collection firm, it shall either attempt to collect the account using institutional personnel, or place the account with a different collection firm.

(2) If the collection firm retained by the institution does not succeed in placing an account into a repayment status described in paragraph (c)(1) of this section after 12 months of collection activity, the institution shall require the collection firm to return the account to the institution.

(d) If the institution is unable to place the loan in a repayment status described in paragraph (c)(1) of this section after following the procedures in paragraphs (a), (b), and (c) of this section, the institution shall continue to make annual attempts to collect from the borrower until recovery in litigation to collect the account would be barred under the applicable statute of limitations.

(e)(1) Subject to § 674.47(d), the institution shall assess against the borrower all reasonable costs incurred by the institution with regard to a loan obligation.

(2) The institution shall determine the amount of collection costs that shall be charged to the borrower for actions required under this section, and §§ 674.44, 674.46, 674. 48, and 674.49, based on either—

(i) Actual costs incurred for these actions with regard to the individual borrower's loan; or

(ii) Average costs incurred for similar actions taken to collect loans in similar stages of delinquency.

(3) The Fund must be reimbursed for collection costs initially charged to the Fund and subsequently paid by the borrower.

(f)(1) An institution shall ensure that any funds collected from the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 424, 1087cc, 1091a)

§ 674.46 Litigation procedures.

(a)(1) If the collection efforts described in § 674.45 do not result in the repayment of a loan, the institution shall determine at least annually, until litigation to collect the account is barred under the applicable statute of limitations, whether—

(i) The total amount owing on the borrower's account, including outstanding principal, accrued interest, collection costs and late charges on all of the borrower's Perkins, National Direct and National Defense Student Loans held by that institution, is more than $200;

(ii) The borrower can be located and served with process;

(iii)(A) The borrower has sufficient assets attachable under State law to satisfy a major portion of the oustanding debt; or

(B) The borrower has income from wages or salary which may be garnished under applicable State law sufficient to satisfy a major portion of the debt over a reasonable period of time;

(iv) The borrower does not have a defense that will bar judgment for the institution; and

(v) The expected cost of litigation, including attorney's fees, does not exceed the amount which can be recovered from the borrower.

(2) The institution shall sue the borrower if it determines that the conditions in paragraph (a)(1) of this section are met.

(3) The institution may sue a borrower in default, even if the conditions in paragraph (a)(1) of this section are not met.

(b) The institution shall assess against and attempt to recover from the borrower—

(1) All litigation costs, including attorney's fees, court costs and other related costs, to the extent permitted under applicable law; and

(2) All prior collection costs incurred and not yet paid by the borrower.

(c)(1) An institution shall ensure that any funds collected as a result of litigation procedures are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(d) If the institution is unable to collect the full amount owing on the loan after following the procedures set forth in §§ 674.41 through 674.46, the institution may—

(1) Submit the account to the Secretary for assignment in accordance with the procedures in § 674.50; or

(2) With the Secretary's approval, refer the account to the Department for collection.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.47 Costs chargeable to the Fund.

(a) *General: Billing costs.* (1) Except as provided in paragraph (c) of this

section, the institution shall assess against the borrower, in accordance with § 674.43(b)(2) the cost of actions taken with regard to past-due payments on the loan.

(2) If the amount recovered from the borrower does not suffice to pay the amount of the past-due payments and the late charges, the institution may charge the Fund only that portion of the late charges which represents the cost of telephone calls to the borrower pursuant to § 674.43.

(b) *General: Collection costs.* (1) Except as provided in paragraph (d) of this section, the institution shall assess against the borrower, in accordance with §§ 674.45(e) and 674.46(b), the costs of actions taken on the loan obligation pursuant to §§ 674.44, 674.45, 674.46, 674.48 and 674.49.

(2) If the amount recovered from the borrower does not suffice to pay the amount on the past-due payments late charges, and these collection costs, the institution may charge and Fund the unpaid collection costs in accordance with paragraph (e) of this section.

(c) *Waiver: Late charges.* The institution may waive late charges assessed against a borrower who repays the full amount of the past-due payments on a loan.

(d) *Waiver: Collection costs.* Before filing suit on a loan, the institution may waive that percentage of the collection costs applicable to the amount then past due on the loan equal to the percentage of that past-due balance that the borrower pays within 30 days of the date on which the borrower and the institution enter into a written repayment agreement on the loan.

(e) *Limitations on costs charged to the Fund.* The institution may charge to the Fund the following costs not paid by the borrower, including amounts waived under paragraph (d) of this section:

(1) A reasonable amount for the cost of a successful address search required in § 674.44(b).

(2) Costs related to the use of credit bureaus as provided in § 674.45(b)(1).

(3) For first collection efforts pursuant to § 674.45(a)(2), an amount that does not exceed 33⅓ percent of the amount of principal, interest and late charges collected.

(4) For second collection efforts pursuant to § 674.45(c)(1)(ii), an amount that does not exceed 50 percent of the amount of principal, interest and late charges collected.

(5) For litigation costs, including attorney's fees, court costs and other related costs, an amount which does not exceed—

(i) Actual costs incurred in taking specific actions in bankruptcy proceedings required or authorized under § 674.49;

(ii) That portion of costs of other actions in bankruptcy proceedings which, together with costs authorized and incurred under paragraph (e)(5)(i) of this section, do not exceed one-third of the total amount of the judgment obtained on the loan; and

(iii) In all other cases, 50 percent of the amount of the judgment obtained against the borrower.

(6) If a collection firm performs or contracts for the performance of both collection and litigation activities on a defaulted loan, an amount for both of the functions that does not exceed 33⅓ percent of the amount of principal, interest and late charges collected by a first collection effort as required in § 674.45(a), or 50 percent for a second collection effort as required in § 674.45(c)(1).

(f) *Records.* For audit purposes, an institution shall support the amount of collection costs charged to the Fund with appropriate documentation, including telephone bills and receipts from collection firms. The documentation must be maintained in the institution's files as provided in § 674.19.

(g) *Write-offs.* (1) An institution may write off an account if—

(i)(A) It carries out the procedures in §§ 674.43, 674.44 and 674.45; and

(B) The total amount owing on a borrower's loan account held by that institution, including outstanding principal, accrued interest, late charges and collection costs on all of the borrower's Perkins, Direct and Defense Student Loans is $200.00 or less; or

(ii)(A) The loan is discharged in bankruptcy; and

(B) The institution has exhausted the procedures in this subpart with regard to any endorser.

(2) An institution which writes off an account under this paragraph may no longer include the amount of the account as an asset of the Fund.

(3) If an institution receives a payment from a borrower after the loan has been written off, it shall deposit that payment into the Fund.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.48 Use of contractors to perform billing and collection or other program activities.

(a) The institution is responsible for ensuring compliance with the billing and collection procedures set forth in this subpart. The institution may use employees to perform these duties or may contract with other parties to perform them.

(b) An institution that contracts for performance of any duties under this subpart remains responsible for compliance with the requirements of this subpart in performing these duties, including decisions regarding cancellation, postponement, or deferment of repayment, extension of the repayment period, other billing and collection matters, and the safeguarding of all funds collected by its employees and contractors.

(c) If an institution uses a billing service to carry out billing procedures under § 674.43, the institution shall ensure that the service—

(1) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number, and, if known, any changes to the borrower's Social Security number; and

(iii) Amounts collected from the borrower;

(2) Provides at least quarterly, a statement to the institution with a listing of its charges for skip-tracing activities and telephone calls;

(3) Does not deduct its fees from the amount is receives from borrowers;

(4)(i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lock-box maintained for the institution; or

(iii) Deposits those funds received directly from the borrower immediately upon receipt in an institutional trust account; and

(5) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(d) If the institution uses a collection firm, the institution shall ensure that the firm—(1)(i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lockbox maintained for the institution; or

(iii) Deposits those funds received directly from the borrower promptly in an institutional trust account, after deducting its fees, if authorized to do so by the institution; and

(2) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number and, if known, any changes to the borrower's Social Security number;

(iii) Amounts collected from the borrower; and

(3) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(e) If an institution uses a billing service to carry out § 674.43 (billing procedures), it may not use a collection firm that—

(1) Owns or controls the billing service;

(2) Is owned or controlled by the billing service; or

(3) Is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the billing service.

(f)(1) An institution that employs a third party to perform billing or collection services required under this subpart shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance in accordance with the requirements of this paragraph.

(2) If the institution does not authorize the third party to deduct its fees from payments from borrowers, the institution shall ensure that the party is bonded or insured in an amount not less than the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party.

(3) In the institution authorizes the third party performing collection services to deduct its fees from payments from borrowers, the institution shall ensure that—

(i) If the amount of funds that the institution reasonably expects to be paid over a two-month period on accounts it refers to the party is less than $100,000, the party is bonded or insured in an amount equal to the lesser of—

(A) Ten times the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party; or

(B) The total amount of funds that the party demonstrates will be repaid over a two-month period on all accounts of any kind on which it performs billing and collection services; and

(ii) If the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party is more than $100,000, the institution shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance—

(A) Naming the institution as beneficiary; and

(B) In an amount not less than the amount of funds reasonably expected to be repaid on accounts referred by the institution to the party during a two-month period.

(4) The institution shall review annually the amount of repayments expected to be made on accounts it refers to a third party for billing or collection services, and shall ensure that the amount of the fidelity bond or insurance coverage maintained continues to meet the requirements of this paragraph.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.49 Bankruptcy of borrower.

(a) *General.* If an institution receives notice that a borrower has filed a petition for relief in bankruptcy, usually by receiving a notice of meeting of creditors, the institution and its agents shall immediately suspend any collection efforts outside the bankruptcy proceeding—

(1) Against the borrower; and

(2) If the borrower has filed for relief under Chapter 12 or 13 of the Bankruptcy Code, against any endorser.

(b) *Proof of claim.* The institution shall file a proof of claim in the bankruptcy proceeding, unless, in the case of a proceeding under Chapter 7 of the Bankruptcy Code, the notice of meeting of creditors states that the borrower has no assets.

(c) *Borrower's request for determination of dischargeability.* (1) the institution shall follow the procedures in this paragraph if it is properly served with a complaint in a proceeding under Chapter 7, 11, or 12 of the Bankruptcy Code, or under 11 U.S.C. 1328(b), for a determination of dischargeability under 11 U.S.C. 523(a)(8)(B) on the ground that repayment of the loan would impose an undue hardship on the borrower and his or her dependents.

(2) If more than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrower filed the petition for relief in bankruptcy, the institution may not oppose a determination of dischargeability requested under 11 U.S.C. 523(a)(8)(B) on the ground of undue hardship.

(3) If less than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrower filed the petition for relief, the institution shall determine, on the basis of reasonably available information, whether repayment of the loan under either the current repayment schedule or any adjusted schedule authorized under Subpart B or D of this part would impose an undue hardship on the borrower and his or her dependents.

(4) If the institution concludes that repayment would not impose an undue hardship, the institution shall determine whether the costs reasonably expected to be incurred to oppose discharge will exceed one-third of the total amount owed on the loan, including principal, interest, late charges and collection costs.

(5) If the expected costs of opposing discharge of such a loan do not exceed one-third of the total amount owed on the loan, the institution shall—

(i) Oppose the borrower's request for a determination of dischargeability; and

(ii) If the borrower is in default on the loan, seek a judgment for the amount owed on the loan.

(6) In opposing a request for a determination of dischargeability, the institution may compromise a portion of the amount owed on the loan if it reasonably determines that the compromise is necessary in order to obtain a judgment on the loan.

(d) *Request for determination of non-dischargeability.* The institution may file a complaint for a determination that a loan obligation is not dischargeable and for judgment on the loan if the institution would have been required under paragraph (c) of this section to oppose a request for a determination of dischargeability with regard to that loan.

(e) *Chapter 13 repayment plan.* (1) The institution shall follow the procedures in this paragraph in response to a repayment plan proposed by a borrower who has filed for relief under Chapter 13 of the Bankruptcy Code.

(2) The institution is not required to respond to a proposed repayment plan, if—

(i) The borrower proposes under the repayment plan to repay all principal, interest, late charges and collection costs on the loan; or

(ii) The repayment plan makes no provision with regard either to the loan obligation or to general unsecured claims.

(3)(i) If the borrower proposes under the repayment plan to repay less than the total amount owed on the loan, the institution shall determine from its own records and court documents—

(A) The amount of the loan obligation dischargeable under the plan by deducting the total payments on the loan proposed under the plan from the total amount owed;

(B) Whether the plan or the classification of the loan obligation under the proposed plan meets the requirements of section 1325 of the Code; and

(C) Whether grounds exist under 11 U.S.C. 1307 to move for conversion or dismissal of the Chapter 13 case.

(ii) If the institution reasonably expects that costs of the appropriate actions will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) Object to confirmation of a proposed plan that does not meet the requirements of 11 U.S.C. 1325; and

(B) Move to dismiss or convert a case where grounds can be established under 11 U.S.C. 1307.

(4)(i) The institution shall monitor the borrower's compliance with the requirements of the plan confirmed by the court. If the institution determines that the debtor has not made the payments required under the plan, or has filed a request for a "hardship discharge" under 11 U.S.C. 1328(b), and the institution holds a loan that entered repayment status more than five years, excluding periods of deferment, before the borrower filed the petition for relief in bankruptcy, the institution shall determine from its own records and information derived from documents filed with the court—

(A) Whether grounds exist under 11 U.S.C. 1307 to convert or dismiss the case; and

(B) Whether the borrower has demonstrated entitlement to the "hardship discharge" by meeting the requirements of 11 U.S.C. 1328(b).

(ii) If the institution reasonably expects that costs of the appropriate actions, when added to the costs already incurred in taking actions authorized under this section, will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) Move to dismiss or convert a case where grounds can be established under 11 U.S.C. 1307; or

(B) Oppose the requested discharge where the debtor has not demonstrated that the requirements of 11 U.S.C. 1328(b) are met.

(f) *Resumption of collection from the borrower.* The institution shall resume bill and collection action prescribed in this subpart after—

(1) The borrower's petition for relief in bankruptcy has been dismissed;

(2) The borrower has received a discharge under 11 U.S.C. 727, 11 U.S.C. 1141, 11 U.S.C. 1228, or 11 U.S.C. 1328(b), unless—

(i) The court has found that repayment of the loan would impose an undue hardship on the borrower and the dependents of the borrower; or

(ii) (A) The loan entered the repayment period more than five years, excluding periods of deferment, before the filing of the petition, and

(B) The loan is not excepted from discharge under other applicable provisions of the Code; or

(3) The borrower has received a discharge under 11 U.S.C. 1328(a) after completion of a repayment plan which made no provisions with regard to either—

(i) The loan obligation; or

(ii) Unsecured claims in general.

(g) *Resumption of collection from the endorser.* The institution shall resume billing and collection action against an endorser of a borrower who has filed for relief under Chapter 12 or 13 of the Code after the borrower's case has been completed or dismissed, or the stay applicable to such action has been lifted.

(h) *Termination of collection and write-off.* (1) An institution shall terminate all collection action and write off a loan on which there is no endorser if it receives—

(i) A general order of discharge on a borrower owing a student loan obligation which entered the repayment period more than 5 years, exclusive of periods of deferment, from the date on which a petition for relief under Chapter 7, 11 or 12 of the Bankruptcy Code was filed;

(ii) A discharge order, other than an order under 11 U.S.C. 1238(b), in a case brought under Chapter 13 of the Code; or

(iii) A judgment that repayment of the debt would constitute an undue hardship, and that the debt is therefore dischargeable.

(2) If an institution receives a repayment from a borrower after a loan has been discharged, it shall deposit that payment in its Fund.

(3) An institution may write off a loan on which there is an endorser only after it has exhausted the procedures in this subpart with regard to the endorser.

(Authority: 20 U.S.C. 424, 1087cc)

§ 674.50 Assignment of defaulted loans to the United States.

(a) An institution may submit a defaulted loan note to the Secretary for assignment to the United States if—

(1) The institution has been unable to collect on the loan despite complying with the diligence procedures, including at least a first level collection effort as described in § 674.45(a) and litigation, if required under § 674.46(a), to the extent these actions were required by regulations in effect on the date the loan entered default;

(2) The total amount of the borrower's account to be assigned, including outstanding principal, accrued interest, collection costs and late charges, is greater than $200.00; and

(3) The loan has been accelerated.

(b) An institution may submit a defaulted note for assignment only during the submission period established by the Secretary.

(c) An institution shall submit to the Secretary the following documents for any loan it proposes to assign;

(1) An assignment form provided by the Secretary and executed by the institution, which must include a certification by the institution that it has complied with the requirements of this subpart, including at least a first level collection effort as described in § 674.45(a) in attempting collection on the loan.

(2) The original promissory note or a certified copy of the original note.

(3) A copy of the repayment schedule.

(4) A certified copy of any judgment order entered on the loan.

(5) A complete statement of the payment history.

(6) Copies of all approved requests for deferred and cancellation.

(7) A copy of the notice to the borrower of the effective date of acceleration and the total amount due on the loan.

(8) Documentation that the institution has withdrawn the loan from any firm that it employed for address search, biling, collection or litigtion services, and has notified that firm to cease collection activity on the loans.

(9) Copies of all pleadings filed or received by the institution on behalf of a borrower who has filed a petition in bankruptcy and whose loan obligation is determined to be nondischargeable.

(10) If the institution has a default rate as calculated under § 674.2 greater than 7.5 percent as of June 30 of the second year preceding the submission period, documentation that the institution has complied with all of the due diligence requirements described in paragraph (a)(1) of this section.

(d) Except as provided in paragraph (e) of this section, and subject to paragraph (g) of this section, the Secretary accepts an assignment of a note described in paragraph (a) of this section and submitted in accordance with paragraph (c) of this section.

(e) The Secretary does not accept assignment of a loan if—

(1) The institution has not provided the Social Security number of the borrower;

(2) The borrower has received a discharge in bankruptcy, unless—

(i) The bankruptcy court has determined that the loan obligation is nondischargeable and has entered judgment against the borrower; or

(ii) A court of competent jurisdiction has entered judgment against the borrower on the loan after the entry of the discharge order;

(3) The institution has initiated litigation against the borrower, unless the judgment has been entered against the borrower and assigned to the United States; or

(4) The borrower has been granted cancellation due to death or has filed for or been granted cancellation due to permanent and total disability.

(f)(1) The Secretary provides an institution written notice of the acceptance of the assignment of the note. By accepting assignment, the Secretary acquires all rights, title, and interest of the institution in that loan.

(2) The institution shall endorse and forward to the Secretary any payment received from the borrower after the date on which the Secretary accepted the assignment, as noted in the written notice of acceptance.

(g)(1) The Secretary may determine that a loan assigned to the United States is unenforceable in whole or in part because of the acts or omissions of the institution or its agent. The Secretary may make this determination with or without a judicial determination regarding the enforceability of the loan.

(2) The institution shall reimburse the Fund for that portion of the outstanding balance on a loan assigned to the United States which the Secretary determines to be unenforceable because of an act or omission of that institution or its agent.

(3) Upon reimbursement to the Fund by the institution, the Secretary shall transfer all rights, title and interest of the United States in the loan to the institution for its own account.

(h) An institution shall consider a borrower whose loan has been assigned to the United States for collection to be in default on that loan for the purpose of eligibility for title IV financial assistance, until the borrower provides the institution confirmation from the Secretary that he or she has made satisfactory arrangements to repay the loan.

(Authority: 20 U.S.C. 424, 1087cc)

Appendix—Public Comments and Departmental Responses

(Note—This appendix will not be codified in the Code of Federal Regulations)

Section 674.41 Due diligence—general requirements.

Comment: Several commenters disagreed with the proposal that institutions be required to use the same collection procedures to collect Perkins Loans that they use to collect other institutional debts. Several commenters indicated that the procedures used in collecting institutional debts should not be used in collecting Perkins Loans because the students may no longer be in school and because of the specialized provisions in the Perkins Loan Program such as deferment, postponement, and cancellation. Several commenters suggested that the determination as to which procedures to use should be left to the institution.

One commenter suggested that the regulations *require* the withholding of transcripts, grades, and further services regardless of institutional practices.

Response: A change has been made. The Secretary agrees with the commenters that using the same procedures to collect Perkins Loan debts as are used to collect other institutional debts may not be effective because of the dissimilarities between the two debts. Therefore, the proposal previously made in § 674.41(a)(3) that the institution use those collection procedures to collect Perkins Loans that it uses to collect other debts has been deleted. There is no statutory mandate that institutions withhold academic transcripts and other services; however, an institution may adopt that practice as its institutional policy.

Comment: Several commenters stated that the regulations should not mandate that all information be shared routinely among offices of the institution. The commenters suggested that institutional offices should be required to share information only as necessary to support billing and collection functions, and that the word "routinely" should be eliminated.

Response: A change has been made. The Secretary agrees with the commenters and in order to reduce regulatory burden, has reworded §674.41(c) to require institutional offices to share information as necessary to support billing and collection functions.

Comment: Several commenters believed that the proposed rule required the institution to share routinely current addresses obtained from the Internal Revenue Service (IRS) skip-tracing service. They stated that these addresses should not be "routinely shared" unless the lending institution receives independent verification of the address. Several commenters, based on the same reading of the rules, expressed concern that institutions that followed the rules as written would incur penalties for misuse of IRS skip-tracing information.

Response: No change has been made. The regulations required sharing of information "in order to determine" certain information needed by the institution for its billing and collection functions. When arranging the exchange of information among its offices, the institution can readily identify the student without disseminating the address derived from IRS reports. The regulation does not require the offices of the institution to share information for any other purpose, and neither authorizes nor permits disclosure of information derived from the IRS to components of the institution which are not directly responsible for collecting Perkins Loan accounts.

Comment: Many commenters supported the proposal in § 674.41(b) which directed the institution to attempt to collect from the endorser after a borrower fails to respond to the first overdue notice. Several of these commenters suggested that collections from endorsers should begin 90 days after the final demand letter. Others felt that the regulations should require endorsers on all loans unless the borrower is over 21 years of age, thus making the endorser (usually a parent) more aware of the responsibility that the student has undertaken.

Many of the commenters raised concerns regarding the use of an endorser on loans. Some of the concerns were: the extent to which the endorser is legally responsible for payment; when the endorser should be required to repay the debt; the amount to be repaid; and whether or not all the steps in the due diligence requirements should apply to the endorser.

The majority of the commenters believed that the decision on when an endorser should be required to make repayments should not be mandated early in the billing cycle, but should be at the institution's discretion.

Response: A change has been made. Based on the comments received, the Secretary has changed the regulation to require the institution to bill the endorser after the borrower fails to respond to the final demand letter rather than to the first overdue notice. The Secretary believes that contact with the endorser prior to the final demand letter is not cost-effective or appropriate because the borrower is the actual recipient and beneficiary of the loan and should be held primarily responsible for repayment to the extent possible. However, by his or her endorsement, the endorser agreed to be responsible for the amount advanced on the note if that amount was not repaid by the borrower. The sample promissory note contains no limitation on the endorser's promise to pay the amount due on the note, and the institution must therefore attempt at that point to collect from the endorser the full amount then due from the borrower.

Section 674.42 Contact with the borrower.

Comment: Several commenters stated that some institutions prepare a new promissory note with each advance to a student, and providing students with copies of all notes at the exit interview as required in § 674.42(a)(3)(ii), would needlessly duplicate paperwork.

Response: No change has been made. Borrowers may frequently have lost earlier copies provided to them. The Secretary believes that the burden of providing a borrower with a copy of his or her promissory notes at the exit interview is more than justified by the benefit derived from reinforcing the individual's awareness of the obligation to repay the debt.

Comment: Several commenters opposed § 674.42(a)(2)(vi) which states that an institution must disclose, at the exit interview, an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and a statement that the borrower has the right to prepay all or part of the loans at any time without penalty. The commenters were opposed to this disclosure requirement because they believed it is not the institution's responsibility to make such information know to a borrower. It is the belief of several commenters that institutions have no control or direct involvement in these procedures, and therefore, run the risk of misinforming students.

Response: No change has been made. The requirement that the institution explain any special options the borrower may have for loan consolidation or other refinancing of the loan and the borrower's right to prepay all or part of the loans at any time without penalty is mandated by Section 463A of the Higher Education Act of 1965, as amended (HEA).

Comment: One commenter stated that it appears that the Secretary has no statutory authority for requiring that institutions provide, during the exit interview, disclosure information required under the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79). The statute provides only that this information must be disclosed "prior to the start of the repayment period."

Response: No change has been made. Although the statute does not specifically require disclosure of this information to the borrower during the exit interview, it does require disclosure prior to the start of the repayment period. The Secretary concludes that providing this information during the exit interview is well suited to protect the Government's interest in securing repayment of the loans. This forum provides a suitable opportunity for the debtor to raise questions regarding the debt and receive an individualized response on that basis, and plainly falls within the Secretary's authority to adopt requirements necessary to protect the Fund against unreasonable risk of loss.

Comment: One commenter suggested that the scope of the exit interview be expanded further to include information on (1) possible assignment of the notes to the Department, (2) an institution's option to deny deferment when forms are not filed on a timely basis, and (3) the Department's use of IRS Federal refund tax offset.

Response: No change has been made. At the exit interview, the institution must provide the borrower with a copy of the promissory note. The model promissory notes published as Appendices to Part 674 explain that notes may be assigned to the Department, and that the institution may deny a deferment if it is not requested in a timely manner. Because the Federal tax refund offset program is still a pilot program, the Secretary does not believe that the institution should be required to notify the borrower of this collection tool at this time.

Comment: Several commenters suggested deleting § 674.42(b)(2)(iii) which instructs an institution to contact a borrower with a nine-month grace period a third time at 240 days after the commencement of the grace period, because they believed that a third contact during the grace period would not encourage repayments. The commenters believed that a third notice would only serve to confuse a borrower who has begun repayment on a six-month grace period loan.

Several commenters recommended that the regulations require the institution to mail the second grace-period notice 180 days, instead of 150 days, after the commencement of the grace period in order to make the second notice correspond with the end of the grace period on six-month grace period loans and to space the notices on nine-month grace period loans more evenly. In addition, the commenters believed that the requirement to notify the borrower of the total amount to be repaid over the life of the loan in the first contact at 90 days should be deleted because it only repeats information provided the borrower in the exit interview.

Response: No change has been made. The grace period notifications were developed to ensure that the institution regularly communicates with the borrower before repayment is due to begin, in order to maintain contact with the borrower and ensure that the borrower understands his or her rights and responsibilities and therefore begins repayment or applies for appropriate deferment or cancellation benefits in a timely manner. The Secretary does not agree that the borrower should be sent the second grace period notification at the end of the grace period, as the purposes of the notice would not be served.

The spacing of the notifications was also established in order to limit institutional burden. In the case of a borrower with a six-month grace period, the borrower must be contacted twice during the grace period. The first notice, 90 days after the start of the grace period, serves as a useful reminder to the borrower of the responsibilities associated with the loan, including the duty to provide the institution with a current address. The second notice, 150 days into that period, is a second reminder timed to coincide with the billing notice required 30 days before the first payment is due. § 674.43(a).

In the case of a borrower with a nine-month grace period, the borrower must be contacted three times during the grace period: 90 days, 150 days, and 240 days after commencement of the grace period. As with six-month grace period loan, the last notice is timed to coincide with the initial 30 day billing notice. Further, the 150 day notices may be combined for those borrowers who have loans with both six-month and nine-month grace periods. For those borrowers with both a six-month and a nine-month grace period loan, moreover, the institution should be able, in the second (150 day) and third (240 day) contact letters, to explain clearly the difference in repayment obligations on the two kinds of loans and eliminate the confusion hypothesized by the commenter.

Section 674.43 Billing procedures.

Comment: Several commenters opposed deleting the requirement that the institution maintain a list of borrowers with overdue payments, updated monthly. The commenters stated that institutions are required to maintain information on overdue accounts in the general conduct of lending activity.

Response: No change has been made. The Secretary is seeking to reduce regulatory burden where possible, and therefore has deleted the requirement to maintain a list of borrowers with overdue payments. The institution may maintain such a list if it so desires.

Comment: Many commenters objected to changing the current requirement that the institution send a statement of account thirty days and ten days, respectively, before the first payment due date and all subsequent due dates to the proposed thirty-day and fifteen-day notices of the repayment schedule because the change would require complete reprogramming of their entire current billing system.

Response: No change has been made. The thirty-day notice required before the first payment is due is the last notice required in the grace period and repesents no change. Based on his experience, the Secretary concludes that a fifteen-day notice allows the borrower a more adequate response time than the current ten-day notice, and this justifies the initial costs of changing billing systems. Moreover, the institution can avoid this burden by using a coupon payment method.

Comment: Many commenters opposed the proposed rule which would require the institution to send final demand letters by certified mail.

Response: A change has been made. The Secretary concurs with the commenters and has deleted the requirement for use of certified mail for final demand letters.

Comment: Many commenters opposed the requirement that the debtor be given thirty days written advance notice before a defaulted loan is accelerated. These commenters stated that, in their opinion, the borrower would have already been given sufficient time to pay before the loan reached the point of acceleration. They also stated that a thirty-day response time would not convey an urgent need to contact the lender.

Response: No change has been made. Acceleration marks a serious stage of delinquency: after acceleration, cancellation rights lapse, and enforcement action begins. This procedure assures that the date of the acceleration coincides with the deadline for response to the final demand letter, and gives the institution additional flexibility to handle debtors who demonstrate some desire to avoid these consequences. The thirty-day advance notice allows the borrower one last chance to respond with sufficient payments to bring his or her account current, or arrange a satisfactory new repayment agreement with the institution. Moreover, because the institution can promptly send a final demand letter and notice of intent to accelerate to a debtor who has indicated unwillingness to cooperate in the past, § 674.43(d)(1), use of a 30-day warning period before acceleration will not necessarily delay collection action against these debtors.

Comment: One commenter suggested that the regulations specify when and under what conditions an institution may accelerate a loan.

Response: A change has been made. Section 674.31 states that an institution may demand immediate repayment of the entire loan (including any late charges and accrued interest) if the borrower fails to make a scheduled repayment on time or to file for deferment or cancellation on time. Therefore, for clarification, the Secretary has expanded § 674.43(e) to include a reference to § 674.31. The paragraph has also been expanded to provide for a written notice informing the borrower of the acceleration date.

Comment: One commenter urged the Secretary not to require an institution to accelerate a loan where a debtor does not respond satisfactorily to the final demand letter, if acceleration would cause the amount then due to be greater than the jurisdictional limit imposed by a small claims court in which the institution intends to enforce the debt.

Response: The comment presents a good collection tactic, and no change is necessary to permit use of this tactic. The final rule does not require acceleration at any particular point in the institution's collection process.

Comment: Many commenters objected to the proposed requirement of a telephone contact in the billing procedures. The commenters stated that this proposal was contradictory to the intent of reducing cost and burden, and that it merely moves the phone call from the collections to billing cycle. They objected on the basis of cost-effectiveness, citing long distance charges and staff time. One of the commenters stated that billing staff who process routine accounts are not trained to be collection personnel.

Response: No change has been made. Department experience with collecting student loans has proven that telephone contact with the borrower is a highly effective method of collection. The Secretary believes that if this contact is required prior to beginning the more costly collection procedures, the necessity for taking further action may be eliminated.

Comment: Numerous commenters objected to the proposed requirement that the institution deposit funds collected through billing (§ 674.43), collection (§ 674.45), and litigation procedures (§ 674.46) in an insured interest-bearing account. Many of the commenters stated that their institutions were required by the Treasurer of the State to depost all institutional funds to the State Treasuere's account. These funds are then invested by the Treasurer and become part of the State's General Fund. The commenters stated that none of the interest earned on such deposits accrues to the institution.

Response: No change has been made. Neither the statute nor the Perkins Loan regulations prescribe the location of accounts into which Perkins Loan funds are to be deposited, and neither bars their deposit in a State-administered account. Although this comment was apparently prompted by the requirement that institutions deposit funds in interest-generating accounts, it describes a practice which is in direct violation of the specific statutory requirement in 463(a)(2)(E) of the HEA that "any earnings of the funds" be deposited by the institution in the Fund. An institution that participates in the Perkins Loan program has received Federal funds from the Department on the basis of its agreement to administer those funds, loans made from them, collections from those loans, and any earnings on the funds in accordance with the statute and regulations. The institution, therefore, is responsible for depositing these earnings into the Fund, and under current law, without regard to this new regulatory requirement, is liable for any earnings by any party on those funds that are not deposited into the Fund. No provision of State law excuses the institution from responsibility for compliance with the agreement with ED and the statutory requirements it incorporates, and no provision of Federal law exempts such institutions from accountability for earnings not credited to the Fund.

Comment: Several commenters objected to depositing funds into interest-bearing accounts because the institutions rarely have any sizable balance in their Fund. These commenters expressed the concern that if they are required to keep funds in interest-bearing accounts, the banks will charge service fees and require that they keep compensating or minimum balances. At present, many banks do not require institutions to keep compensating balances, nor are they being charged service fees for those accounts.

Response: A change has been made. The Secretary continues to believes that an institution should use the same diligence in maximizing its return for the Fund as it would be expected to use on its own funds, and that this diligence requires constant comparation of charges and interest rates paid by competing financial institutions in order to find those which meet the needs of

the Fund at the lowest net cost. However, to defray those costs, the Secretary has revised § 674.8(a)(5) to require the institution to deposit into the Fund only the net earnings on Fund assets in these interest-bearing accounts and to offset bank charges against interest earnings.

Section 674.44 Address searches.

Comment: Many commenters remarked that use of the Department's skip-tracing service to locate borrowers would cause considerable delay and questioned whether institutions had to wait for results before beginning skip-tracing efforts as required in § 674.44(b). One commenter suggested that skip-tracing should be done by either an institution or commercial firm. Other commenters stated that the proposal was, in their view, redundant, overly expensive and largely nonproductive.

Response: No change has been made. There is no cost to the Fund to use the Department's skip-tracing services. The Secretary considers the Department's turnaround time of four to six weeks to be reasonable and effective. Commercial skip-tracing costs are chargeable to the Fund; if a borrower can be located by use of the Department's skip-tracing service, those costs need not be incurred. Therefore, an institution is required to use the Department's free service before proceeding to the steps in § 674.44(b), because use of this free service may spare additional charge to the Fund.

Comment: Several commenters expressed concern that requiring institutions to request an address correction from the U.S. Postal Service would be costly and ineffective. The commenters questioned whether the U.S. Postal Service is prepared to respond to all these requests and help defray the costs.

Response: A change has been made. Proposed paragraph (a)(3) regarding requests for an address correction from the U.S. Postal Service has been deleted. However, an institution is not prohibited from using this practice if the institution determines it to be an effective collection tool.

Comment: Many commenters suggested that reviewing telephone directories should be an institutional option, because small institutions with limited resources would not be able to comply with this proposal. They stated that institutions should be allowed to employ their own procedures. The commenters stated that if the telephone number is unlisted, the operator will not release any information. Directories are often out of date. One commenter suggested that the regulations say "telephone directories *or* inquiries of information operators * * *." The commenters also suggested that compliance with § 674.44(b) should be an alternative, rather than an addition to, compliance with § 674.44(a).

Response: A change has been made. The Secretary agrees with commenters regarding the need for an institution to retain flexibility to use directories or directory assistance to locate a borrower. Therefore, § 674.44(a)(2) has been changed to allow for institutional discretion. These regulations do not preclude institutions from employing their own procedures; however, Departmental experience with the collection of assigned loans shows that the steps proposed in this section are effective tools for locating the borrower.

Comment: Several commenters suggested that the regulations should state that an address search should begin as soon as the first piece of returned mail is received, and that § 674.44(a) be revised to read as follows: "If mail sent to a borrower is returned undelivered (other than unclaimed certified mail), an institution shall take steps to locate the borrower."

Response: A change has been made. The words "other than unclaimed mail" have been added to clarify the intent of the rule.

Comment: Many commenters opposed the proposal that an institution shall make reasonable attempts to locate the borrower at least twice a year until litigation procedures to collect would be barred under the statute of limitations. Many of these commenters questioned whether institutions would be required to maintain skip-tracing activities after the notes have been assigned to the United States and also if these proposed rules preclude notes from being assigned or written-off until the statute of limitations has expired. Several of these commenters stated that it is not a good practice to tie any collection procedure to the statute of limitations, especially when other sections of the regulations governing this program require that institutions prove due diligence prior to assignment. Two of these commenters suggested the paragraph be rewritten as follows: "The institution shall make reasonable attempts to locate the borrower at least twice a year until the account is written-off or assigned."

Response: A change has been made. The Secretary has rewritten, for clarity, the language in proposed § 674.44(d). By assigning a properly-executed note to the Department, an institution relinquishes all rights and responsibilities for the loan, except as otherwise provided in § 674.50. No further address search is required by the institution.

Section 674.45 Collection procedures.

Comment: Several commenters questioned why the regulations require a telephone contact as a part of the billing process rather than as part of the collection procedures. A few commenters opposed the proposal to delete a requirement of telephone contact as part of the collection process because they saw it as a valuable collection tool to personalize the contact and felt it provided a way to determine the proper course of future action.

Response: No change has been made. Institutions are free to continue to make telephone contacts during the collection process; however, because this can be an effective means of restoring a borrower to current repayment status, the Secretary has determined that this personal contact is necessary during the billing process, before the institution begins more costly collection procedures.

Comment: Many commenters were opposed to the requirement to report borrowers to credit bureaus. These commenters suggested that the only time information on a borrower's account should be reported is at the time of legal action or upon assignment of the note to the United States. The commenters felt that this proposal could prove very damaging to the student if information is not accurately reported, or if timely reports are not filed immediately upon payment, subjecting the lending institution to liability for damages. A few commenters stated that paperwork and the regulatory burden would be increased. Several commenters believed that no statute authorizes reporting to credit bureaus, and that the Family Educational Rights and Privacy Act of 1974 (Pub. L. 93–579) might preclude disclosure without a student's written consent. Many commenters opposed the reporting to credit bureaus if the costs are not chargeable to the Fund. Commenters stated that this proposal could be costly to institutions—as much as $555 per year/per institution for membership costs.

Response: No change has been made. The Secretary has interpreted the Family Educational Rights and Privacy Act of 1974 and its implementing regulations, especially 34 CFR 99.31(a)(4)(iv), to permit reporting delinquent or defaulted loans to credit bureaus without the borrower's consent. An institution that wishes to report other loans to credit bureaus could do so only with the consent of the borrower. The Department's experience with this

reporting has demonstrated that it is a relatively inexpensive yet effective collection tool. Moreover, the rule has been revised to clarify that the institution is to assess the cost of reporting the debt to a credit bureau against the debtor as with any other collection costs, and that such costs, if not paid by the debtor, can be charged to the Fund.

Comment: Some commenters questioned whether the term "account status" in § 674.45(b)(2) referred to the amount of the outstanding balance as affected by each payment made, or to the account as either outstanding or paid in full. One commenter stated that there is no legal requirement for monthly updating, and that this practice would be burdensome to the school—especially those with manual operations.

Response: A change has been made. The Secretary has expanded § 674.45(b)(2) to require the institution to report any changes in account status according to the reporting procedures of the credit bureaus to which the institution reported the debt.

Comment: Many commenters opposed the Department's proposal that a collection firm be permitted to retain a defaulted borrower's account for only nine months. The commenters felt that the institution should decide the period allowed the firm to collect the account, and believed that nine months was too short a time. The commenters also felt that this restraint will increase regulatory burden. A few other commenters suggested that each loan should be considered separately, and the Department should not hamper the institution's ability to deal with agencies.

Response: A change has been made. The Secretary has extended this period to 12 months to reduce regulatory burden, but based on the extensive experience of the Department with the use of collection agencies on defaulted loans, the Secretary continues to consider a time limit to be an essential incentive to diligent collection action.

Comment: Several commenters recommended that a second effort not be required when it is the judgment of the institution that litigation is appropriate.

Response: A change has been made. An institution may proceed to litigate to collect an account which it has not been able to recover through a first level collection effort through a collection firm, or through use of its own personnel.

Comment: Many commenters noted that the terminology "significantly more intensive effort" as used in § 674.45(c)(1), is not defined. Many of these commenters said it was confusing and that it should be defined or deleted.

Response: A change has been made. The Secretary agrees with the commenters and has deleted this phrase from § 674.45(c)(1).

Section 674.46 Litigation procedures.

Comment: Some commenters expressed concern over the Department's suggestion in the preamble to the proposed rule that institutions pursue litigation by filing a claim in small claims court. These commenters were of the opinion that the filing of a claim in small claims court would be costly and unproductive. Some commenters believed that not all States have small claims courts. A few commenters suggested that the Secretary use the following regulatory language: "use court of appropriate jurisdiction, only when practical for the institution."

Response: No change has been made. When all other efforts fail and the account meets the conditions in § 674.46(a)(1), the institution is required to litigate. The proposed regulations did not require use of any particular kind of court; the use of small claims court is encouraged, but not mandated by regulation.

Comment: Many commenters opposed the proposal to sue the borrower if the outstanding principal and interest on all of the borrower's Perkins Loans held by that institution is more than $200. These commenters felt that it would not be cost-effective to pursue accounts this small, and that the minimum amount should be much higher. The commenters noted that some institutions are required to use State legal services that will not accept for collection accounts with balances under $500; also, the current level of legal fees discourages the pursuit of such small amounts. Other commenters questioned whether it was cost-effective to litigate small accounts as required in the proposed rule, and recommended that the minimum amount of accounts which must be litigated be raised from $200 to $700.

Response: No change has been made. The Secretary continues to believe that the requirement in the proposed rule that institutions litigate those accounts of more than $200 which meet the requirements of § 674.46(a) is a realistic and cost-effective collection criterion. Several factors enter into this analysis of cost-effectiveness. The first of these, although not specifically addressed in the rule, is the deterrent value of an aggressive collection posture demonstrated through predictable resort to litigation. Second, litigation is cost-effective if used only where there is a reasonable prospect that the debtor has assets or earnings sufficient to satisfy a judgment. The proposed rule, like current regulations, requires litigation only in cases in which recovery of the amount owed, including costs, is feasible. Third, litigation is cost-effective to the extent that the costs of litigation are passed along to the borrower sand do not unreasonably negate the value to the Fund of the judgment or unduly tax institutional resources to achieve that judgment.

Litigation costs fall into two categories, for purposes of analysis under the HEA: attorneys fees and collection costs. The latter is not defined is the statute, but logically includes those costs incurred in attempting collection, including court costs such as filling fees, service costs, witness fees, if any, and similar expenses which are not included in the fees charged by attorneys. Regardless of limitations on assessment of such costs under State law, section 484A of the HEA permits the institution to recover these costs, if reasonable, from the debtor. Since these costs are included within the judgment to be taken against a debtor, § 674.46(a)(1)(iii) and (2) require the institution to initiate suit only against a debtor from whom the institution can collect a "major portion" of that judgment debt, including costs.

Attorney fees are not commonly understood to fall within the phrase "costs" or "collection costs," and therefore, Federal law does not create a new rule authorizing their recovery, which is usually permitted only where the debtor has agreed to pay them. The Department has included such a provision as an option in the model promissory note published since 1977, and has required litigation on particular categories of accounts since the August 13, 1979 NDSL regulations. Institutions that wished to pass this cost on to the debtor have had ample opportunity to develop promissory notes which included this provision. The Secretary concludes from the Department's program experience that many, if not most, of the institutions participating in the Perkins Loan Program now have these provisions in their notes, and can pass on to the debtor the full cost of attorneys fees incurred to collect the debt. Because the final rule requires the institution to sue only those debtors with resources to satisfy a major portion of judgments which should include the full amount of those very costs which the institution might otherwise have to absorb, for this majority of accounts, litigation of small balance accounts will

be cost-effective on those accounts which must be litigated under § 674.46(a) (1) and (2).

The question of cost-effectiveness therefore becomes a real issue only with regard to the collection of those promissory notes which do not authorize the recovery of attorney fees. In those cases, institutions must use either Fund assets or institutional funds, or both, to pay attorney fees. The final rule requires litigation of only those accounts on which the expected cost of litigation, including attorneys fees, does not exceed recovery in the judgment; the minimum amount of such a recovery, under the final rule, is $200. Where attorney fees would exceed recovery in the judgment, litigation is not required; but even where, on small balance accounts, the attorneys fees might consume a substantial part of the recovery, the institution's burden is still quite limited. Under § 674.47(e)(5), the institution may charge against the Fund, attorney fees in an amount up to one-half the judgment, and will therefore be responsible only for fees charged over that limit on these small accounts. The Secretary considers the benefits derived from deterrent effect of litigation sufficient to warrant both the use of the Fund assets for these attorney fees, and the requirement that the institution, where necessary, pay any remainder not chargeable to the Fund. Moreover, as more than one commenter noted, the threat of immediate litigation, when made by counsel, can result in repayments without additional costs, making referral of even these small balance accounts for litigation a cost-effective procedure.

Any consideration of the cost-effectiveness of litigating small balance Perkins Loan accounts must recognize that many jurisdictions have small claims courts in which creditors may pursue small balance accounts with or without attorney representations. Many commenters acknowledged extensive and successful use of these courts. The Secretary recognizes that not all jurisdictions have such courts, and that institutions not located in the jurisdiction in which the debtor can be served with process may not be able conveniently and economically to use a small claims court in that jurisdiction. However, the wide availability of this collection tool for many institutions can be reasonably expected to reduce the number of instances in which payment of attorney fees must be made from the Fund or institutional resources.

Comment: Some commenters stated their belief that they would have difficulty securing counsel to litigate small accounts on which the proposed rule would require them to sue.

Response: No change has been made. Lawyers commonly charge for collection litigation on a contingent-fee basis, under which the attorney agrees to be compensated only from amounts received in successful litigation, usually in an amount equal to 30 or 40 percent of the debt received. The Secretary recognizes that an institution may not be able to secure counsel willing to handle a single, or even a few, low balance accounts on a contingent-fee basis at rates similar to those commonly used on larger accounts, but for several reasons does not believe that this warrants changing the rule. First, in those instances in which the institution retains counsel to handle significant numbers of accounts, it should attempt to negotiate a countingent-fee arrangement which commits the law firm to accept referrals of a certain number of small-balance accounts at reasonable fee rates in consideration of the number and size of the other accounts expected to be referred by that institution. Secondly, the rule requires institutions to refer accounts for litigation only where the expected recovery exceeds the costs of litigation. If an institution were unable to secure counsel to litigate a small-balance account under a contingent-fee arrangement, the institution would then determine whether such accounts could be referred on an hourly-rate reimbursement basis. If the institution reasonably determines that the expected cost of litigation, based on estimates of attorney fees on an hourly-rate basis, would exhaust the amount which can be recovered under a judgment, then the institution, under § 674.46(a)(1)(v), is not required to litigate that account. As discussed in an earlier response, this consideration would ordinarily apply mostly to those accounts which are based on notes that do not authorize the assessment of attorney fees against the borrower.

Comment: Several commenters suggested thast the reference to referrals in proposed § 674.46(c)(1) should be rewritten as it may be misinterpreted to mean that the Department is reinstating the referral procedures.

Response: No change has been made. As stated in the Preamble, the referral procedure has not been implemented by the Secretary at this time. It remains in the final regulations in § 674.46(d)(2) as an optional activity should the Secretary reinstate it at a later date.

Comment: Two commenters questioned whether proposed § 674.46(c)(2) permitted an institution not to litigate and still assign the note to the United States.

Response: As clarified in § 674.50(a), the final rule requires litigation on an account before assignment in those cases in which litigation would otherwise have been mandated. The institution must follow the procedures set forth in §§ 674.41 through 674.46 before assignment of the note to the United States.

Comment: Several commenters suggested that § 674.46(a)(1)(iv) concerning suing the borrower when he or she has a known legal defense be deleted. The commenters stated that it would not be cost-effective for an institution to sue in situations where a known legal defense exists.

Response: A change has been made. The Secretary does not require the institution to initiate suit in those cases in which the institution has good reason to believe that the debtor can establish a meritorious legal or factual defense to the obligation. Where the institution determines that a partial defense may be established, the determinations required in this section regarding the cost of litigation compared to recovery must be based on the amount of the enforceable portion of the obligation.

In some instances, the defense identified may be based on facts over which the institution has no control, such as the expiration of the statute of limitations with regard to a debtor whom the institution has been unable to locate, despite recurring and bona fide attempts, until more than six years after the debtor defaulted. (Note: Pursuant to section 484A of the HEA, institutions are now entitled to at least a six-year limitation period within which to bring suit against a Perkins Loan or NDSL defaulter, regardless of any State law which would establish a shorter period; State law may, however, provide for periods greater than six years. This provision assures that at least a Federal minimum applies to all NDSLs and Perkins Loans, including those made before the date on which section 484A was enacted.)

In other cases, the institution may be responsible for the defense available to the borrower; for example, when the other conditions of § 674.46(a) are met, but the period of limitation has run with regard to a loan which the institution has not attempted suit in a timely manner, the Secretary does not require the institution to attempt litigation. However, in such cases, the institution has failed to enforce properly an obligation which it was responsible to collect. The Secretary considers the institution liable for the loss caused to

the Fund by that or any other action or omission which bars the institution from securing a judgment for the full amount outstanding on a loan which met the other conditions in § 674.46(a). The institution is similarly liable for losses caused to the Fund by acts or omissions in the past that prevent successful litigation at present; for example, an institution that did not sue a defaulter is liable for the loss to the Fund on that loan if the debtor later leaves the State and cannot be located unless the institution demonstrates that when the debtor was able to be served with process, litigation would not have been successful, and therefore, that it was not then required to litigate the account.

Comment: Two commenters suggested that institutions not sue for small amounts but be allowed to use an offset of Federal income tax refunds by the Internal Revenue Service.

Response: No change has been made. The tax refund offset program is presently authorized only through 1987, and Congress has not yet taken any action to extend this program. In addition, under 31 U.S.C. 3720A, only Federal agencies may refer debts to the IRS for collection by offset; as presently interpreted, the statute permits such referrals only after Perkins Loan notes have been assigned to the United States.

Section 674.47 Costs chargeable to the Fund

Comment: Several commenters requested more clarification on the word "actual" as used in § 674.47(a)(1)(ii). They cite great difficulty in individualizing borrowers' accounts in this process.

Response: A change has been made. As explained in §§ 674.43(b)(3) and 674.45(e)(2), the institution may assess late charges and collection costs based on either the actual costs of actions taken on the particular account, or on average costs. Therefore, individualized recordkeeping is not necessarily required, but documentation must be retained to support the determination in either case.

Comment: Many commenters were opposed to institutions being limited to charging the Fund an amount not to exceed $25 for each successful address search for a borrower. The commenters believed that instead of an amount being cited in the regulations, the regulations should say "reasonable." A few of these commenters were opposed to using the word "successful" on grounds of not knowing whether an address search would be successful or unsuccessful until the search is completed. These same commenters felt that costs for unsuccessful searches should also be chargeable to the Fund.

Response: A change has been made. Based on comments received, the Secretary has decided that an institution may charge the Fund a "reasonable amount" for each successful address search rather than the proposed $25. It is not the Secretary's intention to mandate the kind of skip-tracing service an institution can employ, or to limit the kind of compensation arrangement reached between the services and the institutions. The institution may limit its costs by using a contingent fee agreement with the contractor.

Comment: A number of commenters opposed the requirement to assess collection costs against the borrower. Many of these commenters recommended that assessment of collection costs be an option of the institution to use as a negotiating tool. Other commenters opposed this rule, citing a possible conflict with the Fair Debt Collection Practices Act (Pub. L. 95–109), State laws prohibiting this practice, potential negative public relations with alumni, and conflicting language in the promissory note.

Response: A change has been made. The Secretary continues to believe that, to the extent possible, the institution should shift the burden of collection costs from the institution and from the taxpayer to the defaulting borrower. However, the Secretary agrees with the commenters' agrument that the ability to waive some or all collection costs is a valuable collection tool, and he has modified the rule to comply with this comment. Under § 674.47(d), the institution may waive collection from the borrower of the same percentage of the accrued collection costs as that percentage of the outstanding balance then due on the account that the debtor repays within thirty days of the date the debtor enters into a repayment agreement with the institution. Thus, if the debtor and the institution reach a written repayment agreement, and the debtor repays one-half of the outstanding principal and interest balance then due on as delinquent or defaulted loan within thirty days of the date of that agreement, the institution may waive the collection of one-half of the collection costs that have accrued on the account through the date of that payment; payment in full can permit a full waiver of collection costs. To the extent that these accrued costs have been waived under this rule, the institution may charge them against the Fund, subject to the limitations otherwise applicable under § 674.47.

The Secretary recognizes that some promissory notes may not include language regarding the assessment of collection costs. As discussed in an earlier comment, the omission of such a provision does not prevent the institution from assessing such costs because the imposition of these costs, unlike attorney fees, is authorized by section 484A of the HEA, as added by section 16033 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), for all loans. The Secretary has revised the language of the suggested promissory note to clarify that the borrower is liable for collection costs.

Although some commenters cited adverse alumni reaction as a reason for not assessing collection costs, it is not at all clear why this factor deserves serious consideration. Whether the alumni approve this collection practice is at this point no longer a controlling consideration; by accepting a fiduciary responsibility over these Perkins Loan funds, the institution bound itself to pursue enforcement of these debts without regard to whether such action may at times impair its own self-interest. Moreover, the rule has been revised to permit waiver of collection costs for those alumni who demonstrate a good-faith effective effort to cure a past default.

As previously noted, section 484A of the HEA authorizes the institution to assess collection costs against the borrower without regard to the provisions of State law. This assessment of collection cost against the borrower does not conflict with requirements of the Fair Debt Collection Practices Act (FDCPA) as suggested by a commenter. Section 808 of the FDCPA prohibits a third-party collecting a debt on behalf of a creditor from collecting any charges or expense incidental to the principal obligation unless expressly authorized by the original agreement or permitted by law. 15 U.S.C. 1692f(1). Because section 484A of the HEA now specifically authorizes assessment of collection costs, a debt collector can attempt to collect them as permitted by law.

Comment: Many commenters opposed the proposal to limit the costs chargeable to the Fund to "successful" collection efforts. The commenters noted that they would not be able to distinguish successful from unsuccessful until after collection efforts were completed, and therefore the same expenses would have been incurred in either case.

Response: A change has been made, but the basic principle has been retained. As noted earlier, where the regulations mandate specific actions

with fixed costs, such as telephone contacts (§ 674.43(f)), credit bureau reporting (§ 674.45(a)(1)), and opposing relief in bankruptcy (§ 674.49) on all accounts, § 674.47(a) and (b) permit the institution to charge these costs, if not paid by the debtor, to the Fund without regard to whether they were "successful"; or not. The other costs incurred after the billing cycle, such as costs of address searches (§ 674.44(b)), collection action (§§ 574.45(a)(2) and 674.45(c)(1)(ii)), and litigation (§ 674.46) can typically be obtained by the institution on a contingent-fee basis: the institution incurs no cost unless the service is successful. The Secretary therefore considers it reasonable to permit the institution to charge these latter costs to the Fund only when they are successful. § 674.47(e) (1), (3), (4), (5), and (6). If the insititution provides these services in-house or on a non-contingent basis, it need only apportion these costs between successful and unsuccessful attempts in a reasonable and documented manner.

Comment: Many commenters objected to proposed § 674.47(c)(3) which provided that an amount not to exceed 50 percent would be charged against the Fund for second collection efforts. One commenter was of the opinion that 50 percent was excessive and 33⅓ percent as used in first collection efforts would be more appropriate. Other commenters believed that the establishment of two different percentage rates was counterproductive. They felt that the higher allowance for second efforts would encourage collectors to work less in the first time effort for a higher profit margin in the second. They urged that the 50 percent rate be used for both.

Response: No change has been made. The rule requires the institution generally to use different parties for first and second collection efforts, thereby reducing the possibility of allowing accounts to slip from first to second levels of efforts. The Secretary intends to consider the need for a 50 percent allowance for second effort in the near future, and after further consideration and public comment, may reduce that level.

Comment: Several commenters were opposed to the wording of proposed § 674.47(c)(4), which the commenters stated would have permitted the institution to charge the Fund only for the salary of an institutional employee performing collection functions. These commenters believed that fringe benefits, a portion of office space and equipment, and other related employment costs should also be chargeable against the Fund.

Response: A change has been made. The Secretary's intent was not to exclude cost categories from the expenses that an institution could charge to the Fund if it performed its own collections, but to give an example of permissible charges. An institution may include in the costs to be charged against the borrower, and, if not paid by the borrower, against the Fund, any expense reasonably incurred in carrying out the activities described in § 674.47(b), including both direct and indirect costs properly allocated to these activities.

Comment: Many commenters objected to the limitations on litigation costs that could be charged to the Fund under proposed § 674.47(d)(2). The commenters approved a limitation on such costs, but believed a higher limit than $2,000 or one-third of the amount of any judgment obtained was necessary.

Response: A change has been made. The Secretary believes that a higher limit may be warranted; and has therefore increased the amount of litigation costs that can be charged to the Fund to an amount not to exceed 50 percent of the amount of any judgment obtained. § 674.47(e)(5). This increase is intended to provide institutions a level commensurate with their new burden of litigating smaller balance accounts, and enable them to negotiate referrals of groups of accounts of varying sizes for litigation. The Secretary intends to review the affect of this level on program costs and recoveries, and may propose to reduce that level in the future.

Comment: A number of commenters opposed § 674.47(e) of the proposed rule regarding write-offs. Some commenters felt that $200 was too high and students would not pay the last $200 owed if the rule allowed that amount to be written-off. One commenter asked where any money collected after the write-off procedure would be deposited. A few commenters recommended a smaller write-off figure with no strings attached. Other commenters questioned the value of the write-off procedure if continued collection efforts were required; they recommended deleting these requirements in the proposed rule.

Response: A change has been made. Under § 674.47(g) of this final rule, the amount which may be written off remains at $200 or less. Under the final rule, the institution must exhaust the due diligence procedures prescribed in these rules, which include not only a sequence of contacts immediately after default, but semi-annual attempts to locate "skips," annual dunning contacts, and annual evaluation of accounts for litigation until litigation to collect the account would be barred by the statute of limitations, now six years, unless State law provides a longer period. 20 U.S.C. 1091a(a). The Secretary believes that it is not cost-effective to require collection efforts beyond that point, and write-off is then reasonable for small balances. For larger balances, the institution is urged to consider assignment to the Department for further enforcement action.

Section 674.48 Use of contractors to perform billing and collection or other program activities.

Comment: Many commenters opposed § 674.48(c)(1) of the proposed rule which would require that any billing or collection firm under contract by an institution to collect Perkins Loans be bonded in an amount covering the amount of collections on loans expected to be in its control for a two-month period of time. The commenters stated that most billing firms work in conjunction with financial institutions—with accounts set up in the name of the institution using their services for billing. The commenters believed that it is unnecessary to ask a billing firm to be bonded when it does not handle money nor have signatory powers on the account. Several other commenters questioned why the Department is requiring a bond and at the same time requiring that funds be deposited in an institutional trust account or lock-box.

Several commenters suggested that the bond should be a "performance bond," while other commenters requested guidance as to how an institution would verify the existence of a bond and what types of bonds should be provided. Three commenters stated the bond should cover the amount of all portfolios a firm is handling.

Many commenters opposed the proposed rule as financially burdensome because they would have to get bonding agents to increase the amount of their bonds. Two commenters opposed the bonding proposal if the institution uses a law firm to collect because of the extensive insurance coverage they already maintain to protect their clients.

Response: A change has been made. Section 674.48 has been revised to clarify the requirement that an institution retain only bonded billing services and collection firms to carry out billing and collection procedures. Section 668.15 of the title IV General Provisions regulations requires that an institution shall obtain and keep current adequate fidelity bond coverage in order to protect the Government's interest in the title IV funds it receives as a trustee.

A fidelity bond, or similar insurance, indemnifies the holder or beneficiary against losses resulting from the fraud or defalcation of an individual. The Secretary believes that it is reasonable to require the institution to assure the same sort of protection for the Federal and institutional interest from third parties who handle its loan accounts as it is required to provide with regard to its own employees.

The Secretary believes that reasonable people exercising normal prudence in the administration of their financial affairs would require a third party to demonstrate adequate fidelity bond protection before entrusting that party with duties which might permit embezzlement of their funds. Third parties engaged in student loan collection in the past have embezzled funds repaid by borrowers, and there can be no assurance that the firm retained by the institution will continue in business after a misappropriation by its employees, so that the institution could recover for its loss from assets of the firm. Indeed, history suggests that the contrary will be true. An institution which allows a third party to handle its loan accounts without satisfying itself that a financially responsible surety will indemnify it in the event of loss is therefore negligent in the performance of its duties as trustee of the Fund.

A fidelity bond adequately protects the institution only if it provides coverage in an amount sufficient to indemnify the institution for the full amount of any misappropriation of funds belonging to the institution.

To respond to those commenters who believed that collection firms should be permitted to deduct their fees, while at the same time assuring minimum adequate bonding coverage, the Secretary has revised the proposed rule with regard to bonding requirements for third-party collectors to provide two alternative methods of assuring adequate coverage. First, if the institution does not authorize the third party to deduct its fees, but requires it either to deposit payments in an institutional trust account or to direct payments to the institution itself or to a lock-box, § 674.48(f)(2) of the final rule provides that the institution may meet its duty of care if it assures itself that the billing or collection firm is bonded in an amount equal to two months' expected repayments on referred accounts.

Second, the final rule provides that if the third party collector is authorized to receive payments and deduct its fees from the receipts, the institution must more actively undertake to assure the protection. If the amount of expected receipts is very large, over $100,000 over a two-month period, the institution has substantial exposure, and must assure itself that it will not have to compete with other clients for a share of a common bond by ensuring that it is the named beneficiary on a bond or policy in the full amount of those repayments. Section 674.48(f)(3)(ii). If the amount of expected receipts is less than $100,000, the institution must still make a reasonable effort to assure itself that the bond coverage will protect its interest. It can do so by assuring itself that the collector is bonded in an amount ten times larger than the amount of repayments expected to be generated in a two-month period on accounts the institution itself refers to the agent, a multiple designed to provide some protection from the effects of competing claims. Section 674.48(f)(3)(i)(A). The institution should be able to satisfy this requirement with a minimum of investigation. If this multiple, on the other hand, exceeds the amount the collector will be receiving during the two-month period for all its clients, and demonstrates that to the satisfaction of the institution, the final rule provides that a smaller bond is reasonable. Section 674.48(f)(3)(i)(B). It must be emphasized that these particular bonding requirements apply only in those instances in which the institution permits the third party to pay itself out of receipts on the loan accounts, and therefore only apply to contracts with collection firms.

An institution that engages a law firm to perform collection services on its accounts (other than actual collection litigation) must assure itself of this protection in the same manner as with any other third-party, by reviewing the bond or insurance policy to determine whether it protects against misappropriations by employees of the firm. Where a law firm's malpractice insurance also indemnifies for misappropriation of funds by any of the employees of the firm in the course of collection activity, such a policy would provide coverage comparable to that of a fidelity bond.

Comment: A number of commenters opposed the provision in proposed § 674.48 (c)(2) and (d)(4) that would require institutions to use billing services and collection firms that provide monthly statements to institutions to show activities with regard to each borrower. Some commenters stated that the proposed requirements are unnecessarily burdensome due to lack of personnel to review statements, and a costly duplication of effort because institutions already receive information regarding the borrower's status from various other reports. Several commenters suggested that the proposal be dropped due to increased programming costs which the commenters believed would be very high.

All of these commenters opposed the requirement that the monthly statements from billing and collection firms should include amounts applied to principal, interest, and late charges. The commenters stated that the requirement is redundant due to the fact that this information is already kept by the institution in its accounting system.

Several commenters stated that collection firms should be required to furnish the information listed in proposed § 674.48(d)(4) of this section, only upon the close and return of the account to the institution. A few commenters suggested that the regulations require quarterly statements which show only payments and commissions charged.

Response: A change has been made. The Secretary agrees with the commenters that some of the information required is available to the institution through various other reports. Therefore, many of the items previously listed in § 674.48 (c)(2) and (d)(4) have been deleted; these provisions now require an institution that uses a billing service or a collection firm to secure from these contractors a quarterly statement instead of a monthly statement as proposed in the NPRM.

Comment: Many commenters objected to § 674.48 (c)(5)(i) and (d)(3)(i) of the proposed rules which gave the institution an option to use billing services and collection firms that instruct the borrower to pay the institution directly. The commenters suggested the requirement be deleted or reworded as follows: "* * * instructs the borrower to make checks payable to the institution, but remit to the service or firm." Several commenters stated that it is a responsibility of a billing service and collection firm to receive payments. The commenters also expressed the concern that this requirement would delay the communicating of account activities and result in inaccurate information.

Response: No change has been made. The institution is primarily responsible for Perkins Loan funds, and the Secretary sees no reason to bar the institution, if it chooses, from receiving payments directly from the borrower. Therefore, this will remain as an institutional option. § 674.48 (c)(4)(i) and (d)(1)(i).

Comment: Many commenters disagreed with proposed § 674.48(d)(3)

(ii) and (iii) which would require a collection firm to deposit funds collected from the borrower in a lock-box or institutional trust account. The commenters stated that in most States, collection firms are licensed and bonded, and are required by law to pay clients on a regular monthly basis. The commenters also stated that by State law, funds are supposed to be kept in an agency client trust fund. Several commenters believed that this proposal would require more bookkeeping for the institutions and agencies and establishment of additional bank accounts. Other commenters stated that it would be costly because of monthly box rental fees. Some of these commenters stated that this proposal will not provide any additional protection against unlawful use of loan funds beyond that already provided by bonding requirements.

Response: No change has been made. The Secretary believes that the proposed provisions best satisfy the Secretary's goals of protecting the Federal Government's interest in the title IV funds. It is difficult to see any basis for concluding that loan repayments commingled in a single client trust fund would be protected in the event of either embezzlement or insolvency by the firm as fully as if they had been promptly deposited in an institutional trust account, after deduction of the firm's commissions. Therefore, if an institution chooses not to use a collection firm that instructs the borrower to pay the institution directly, it must employ one that deposits those funds in a lock-box or institutional trust account.

Comment: Many commenters objected to requiring an institution to ensure that a collection firm does not deduct its fees from the amount it receives from the borrower. The commenters suggested that the Secretary allow such a firm to retain its commission before remitting payment to the institution provided that borrowers' accounts are credited. The commenters believed that firms would be forced to extend credit to their clients—creating paperwork and expense. A number of these commenters also noted that attorneys usually deduct their fees from the payment. The commenters suggested that this proposal be deleted and that the institution be allowed to use its discretion in establishing mutual agreements with the collection firms. They believed that this proposal offered no additional protection against abuse. The commenters stated that the additional institutional workload to audit collection firms, to process invoices and payments, and the adversarial relationships between institutions and collection firms which, they felt, would be created by this proposal, would not make this requirement cost-effective.

Response: A change has been made. The Secretary agrees with the commenters that the proposed requirement may not be cost-effective and this provision has been deleted.

Comment: Numerous commenters responded to the Secretary's invitation to comment on whether or not the prohibition against an institution using a commonly owned billing service and collection firm should be revoked. These commenters believed that allowing the use of commonly owned services would present a conflict of interest. The commenters stated that revoking this prohibition would make it more advantageous for a company to pursue an account after default, when the percentage of return would be greater. Some commenters believed that smaller firms collect more aggressively and are more sensitive to institutional needs and that removing the prohibition would enable large firms to underbid them and monopolize the provision of these services, to the ultimate detriment of the institutions and the loan program. Several commenters expressed concern that an environment for misuse would be created and the system of checks and balances would be eliminated. The commenters believed that deleting this requirement would also increase the per-dollar cost of collections, and therefore, they recommended that the regulation not be revoked.

However, a smaller number of commenters responded favorably to revoking the provision that prohibits an institution from using a collection firm and billing service that are commonly owned. These commenters provided the following reasons as to why this provision should be revoked: (1) Allowing institutions to use collection firms and billing services that are commonly owned may improve communications, thus improving the efficiency of the billing/collection process; (2) The prohibition may stifle and prohibit the establishment of consortium agreements which can be an effective means of performing collection efforts; (3) There may be a reduction in operating costs to institutions because it would eliminate the paperwork of sending accounts from billing to collection firms; (4) There would be consistency between the Perkins Loan and Guaranteed Student Loan programs; and (5) Maintaining the regulation may prohibit normal effective operations and restrain trade.

Response: No change has been made. The Secretary appreciates the comments received regarding the provision which prohibits institutions from contracting with commonly owned billing services and collection firms. After considering the comments, the Secretary agrees with the majority of the commenters that the checks and balances which this prohibition provides are necessary to protect the Fund, and therefore does not believe that revoking this prohibition is prudent at this time.

Comment: Several commenters responded to the Secretary's invitation to comment on whether a provision should be added to require an institution that contracts with a single firm or with commonly owned firms to perform both billing and collecting to obtain biennial audits of the Perkins Loan accounts of the firm(s). All of these commenters opposed this provision and stated that audits should only be conducted when and if the school needs them.

Response: The Secretary appreciates the comments and does not include such a provision in the regulation. In view of the bonding requirement for billing services and collection firms, the Secretary no longer believes that the provision regarding biennial audits of these firms is necessary. However, the Secretary considers periodic auditing of the institution's accounts held by a firm to be a desirable practice.

Comment: Several commenters suggested that defaulted amounts should be subject to offset of Federal income tax refunds by the Internal Revenue Service.

Response: No change has been made. The Internal Revenue Service, on behalf of any Federal agency, if authorized by the Spending Reduction Act of 1984 (Pub. L. 98–369, Section 2653, 98 Stat. 1153) to offset Federal income tax refunds of taxpayers who owe debts to the United States. 26 U.S.C. 6402(d). Because loan debts are not regarded as owed to a Federal agency until assigned to the Department of Education, the Secretary has no basis for requesting an offset for such debts against a borrower's Federal income tax refund. Moreover, this authority now extends only to offsets of refunds payable before December 31, 1987.

Section 674.49 Bankruptcy of borrower.

Comment: Several commenters objected to both perceived and real requirements in the proposed rule regarding institutional responsibilities with regard to borrower bankruptcies as being overly burdensome and costly in light of costs of litigation and the expected recovery, and urged that

greater reliance be placed on institutional discretion in selection of enforcement actions on such loans.

Response: The regulations require the institution to exercise due diligence in attempting to enforce a loan owed by a borrower who has filed for relief in bankruptcy. Generally speaking, they do not require the institution to do more than it would otherwise be required to do in the context of any other litigation, nor less than the institution is already required to do under bankruptcy law. For example, the regulations require the institution, upon notification of the filing of a bankruptcy petition, to suspend collection action *outside* the bankruptcy proceeding, and require the institution, at a minimum, to prepare and file a proof of claim, an extremely inexpensive and simple step in the collection process. The regulations, on the other hand, require the institution, as a trustee of the Fund, to consider carefully the various enforcement actions that other prudent creditors would take to protect their claims against a debtor in bankruptcy, and to take those actions which are legally authorized and which are not expected to cost more than the size of the loan and the future recovery from the debtor can justify.

Institutions differ greatly in their experience with loan collection in general and with bankruptcy in particular; institutions likewise differ in their commitment to aggressive loan collection. In light of these differences and the substantial Federal interest at stake in this matter, it is entirely appropriate for the Department to provide in these rules specific guidance and minimum standards for the exercise of due diligence in the context of student loan bankruptcies, rather than leaving the choice of actions to the discretion of each institution.

The Department recognizes that realistic consideration of costs of litigation must be made with regard to each step in the handling of student loan bankruptcies, and the final regulations require the institution to make a reasonable estimate of the cost-effectiveness of an enforcement action with regard to a debtor in bankruptcy before it expends Fund and institutional assets on such litigation.

Comment: Several commenters believed that the proposed rule would require the institution routinely to file a complaint to have a loan in repayment less than five years from the filing of the petition determined to be nondischargeable, and objected that the law does not require this action in order to preserve the enforceability of the loan obligation.

Response: Clearly, the statute places the burden of securing a determination of dischargeability on the debtor for those loans falling under 11 U.S.C. 523(a)(8)(A), and the institution need not initiate the consideration of that issue by filing a complaint to have the loan determined to be nondischargeable. Neither the proposed rule nor the final rule requires the institution to file such a complaint in every case involving a nondischargeable loan. Consistent with the consideration of litigation costs discussed earlier, § 675.47(e)(5) (i) and (ii) permit the institution to charge actual costs to the Fund if it chooses to contest aggressively the discharge of a loan under circumstances in which the Department considers such action likely to prove cost-effective, and a contingent amount in other circumstances. The institution that chooses to file a complaint for a determination of nondischargeability under circumstances described in § 674.49(c) (3), (4), and (5) may charge the actual amount of litigation costs to the Fund. In all other cases, the institution may charge the fund only those costs not to exceed one-third of the amount of any judgment obtained by that action.

Comment: Several commenters objected to the requirement in the proposed rule that an institution include in its pleadings a request for judgment on the amount owed by the debtor in those instances in which the school files a complaint to have a loan obligation determined to be nondischargeable, or opposes a complaint seeking to have the loan held to be dischargeable. The commenters believed that such an action was not appropriate in a bankrupcty proceeding.

Response: No change has been made. Because the bankruptcy court has jurisdiction to adjudicate cases arising in or related to cases under the Bankruptcy Code, the court appears to have the power to issue an order determining the amount owed on a debt included in the bankruptcy proceeding. Moreover, the practical benefits of securing a judgment on the debt in the bankruptcy proceeding are obvious: first, the institution at this time definitely knows the location of the debtor, who either before or after the bankruptcy may be difficult to trace; second, the judgment tolls the running of the statute of limitations on the debt; and third, the action increases the likelihood that the debtor will enter into a reaffirmation agreement regarding the loan obligation, and make such an agreement, which would be incorporated in a consent judgment, more valuable to the institution after the bankruptcy is closed. Therefore, this requirement states what constitutes a good collection practice and has been retained in § 674.49(c)(5)(ii).

Comment: Some commenters believed that the institution should not be required in every Chapter 13 proceeding to seek to have the plan extended to the full five years authorized under the Code, but should be permitted to seek this extension before those courts which appear receptive to such a proposal.

Response: The comment is well taken, and this requirement has been deleted from the final rule; institutions are urged to consider this action on a case by case basis.

Comment: One commenter believed that the regulations were perhaps excessively detailed regarding the institution's responsibilities with regard to claims of undue hardship, but silent on other grounds for excepting loans from discharge, such as borrower misrepresentation of financial status, and suggested that the institution be counseled to consider weighing the cost of attempting to oppose discharge on other grounds against the likely recovery.

Response: The Department recongizes that in most instances the institution will lack the information needed to establish that a loan should be excepted from discharge under the false representations and fraud provisions of 11 U.S.C. 523(a) (2) and (4), and therefore does not require the institution to undertake an investigation that might establish that the loan should not be discharged for such fraud. On the other hand, the institution as a trustee of the Fund has a responsibility to exercise diligence in attempting to collect these loans as assets of the trust, and cannot ignore information it has in its possession that might establish that the student loan debtor obtained the loan by means of false pretenses or a false statement of his or her financial condition. Where the institution has information that shows that the debtor made such false statements, its general fiduciary responsibility for collection litigation requires it to protest the discharge on that ground where there is some likelihood that the debt can be recovered from the debtor. 34 CFR 674.46(a) (1), (2). The costs of such litigation, to the extent not recovered from the debtor, can be charged to the Fund under § 674.47(e)(5)(ii).

Comment: One commenter pointed out that the institution should not be required to oppose a discharge if a Chapter 13 debtor is unable to complete the payments required under the previously approved plan and seeks a

discharge under 11 U.S.C. 1328(b), as proposed earlier, because such a discharge, if granted, affects only loans dischargeable under the terms of 11 U.S.C. 523(a)(8). By not opposing such a request, the institution ensures that a debtor who might have been able to discharge his or her obligation without regard to the five-year, undue hardship rule in 523(a)(8) must now meet that test in order to have the loan discharged.

Response: The comment is well taken, and the final rule has been revised to require the institution, rather than opposing a discharge requested under 11 U.S.C. 1328(b), to act only where that action can potentially protest the future enforceability of the loan and is not disproportionately costly. Thus, the institution should monitor the debtor's performance under the Chapter 13 plan, and identify failure by the debtor to make the payments required under that plan. Where the institution finds repeated failures to make required payments, it should anticipate that the debtor will seek a "hardship discharge" under 11 U.S.C. 1328(b). Such a discharge, if granted, will discharge loans which entered repayment more than five years before the filing of the petition. If the institution holds a nondischargeable loan, it need take no action at this point; however, if the institution holds a dischargeable loan, it must then review the cost and likelihood of success of either moving to dismiss the case in order to preempt the expected request for a "hardship discharge," or waiting for, and opposing, that request. The institution must review its own records and pertinent court records to evaluate whether, under applicable provisions of bankruptcy law, the facts in the case support a move to dismiss the case, or an objection to the requested "hardship discharge," and further, whether the amount the institution will spend, with the amounts already spent in litigating this particular bankruptcy, exceed one-third of the amount of the loan debt that will be lost if the discharge is granted. In the case of larger, dischargeable loans and low-divided plans, the Department expects that opposition by the institution will be cost-effective, and in those cases, aggressive opposition by the institution is a necessary element of its due diligence responsibilities.

Section 674.50 Assignment of defaulted notes to the United States.

Comment: Several commenters felt that § 674.50(a)(1) of the proposed rule, which would have required that a note be in default for two years before it could be assigned to the United States, was too restrictive. They stated that institutions should have an option of assigning a note to the United States at any time after due diligence procedures have been performed.

One commenter stated that the provision for assigning notes should be deleted from the regulations because the procedures may be a disincentive for schools to do a good collections job.

Response: A change has been made. The Consolidated Omnibus Budget Reconciliation Act of 1985 eliminated the requirement that a loan must be in default for two years before an institution may assign it to the United States. In accordance with this Act, § 674.50(a)(1), as proposed in the NPRM, has been deleted. An institution may assign a defaulted loan to the United States if that institution has been unable to collect a payment after following the due diligence procedures through a first collection effort, and if litigation is required under these rules, through entry of a judgment. The assignment process is not intended as a disincentive for loan collections, but is available only if a loan cannot be collected after institutional collection efforts have been exhausted.

Comment: Many commenters expressed concern with § 674.50(a)(3) of the proposed rule which permits an institution to assign to the Secretary only those accounts greater than $200. They felt that this may be a problem for two-year institutions and that the minimum amount should be reduced to $100. Some of these commenters stated that they would support this proposal if § 674.47, "Costs chargeable to the Fund," allows institutions to cancel, forgive and cease to pursue accounts valued at $200 or less. Other commenters questioned how the accounting would be handled for accounts of $200 or less. One commenter stated that the account balance to be assigned should be no less than $500. One commenter stated that no dollar minimum should be placed on assigned accounts.

Response: No change has been made. The purpose of the provisions in the statute for assignment to the Secretary is to permit the Federal Government to use its resources to enforce the loan. Based on its experience with its current portfolio the Department considers an account balance of $200 to represent the minimum account size to be handled effectively. The Secretary is including a provision in § 674.47 for the write-off of account balances of $200 or less. Accounts that are written off should be handled according to normal institutional accounting procedures; however, if a payment is made on an account after the account has been written off, the payment must be deposited into the Fund.

Comment: Several commenters stated that the documentation requirements in proposed § 674.50(c) were excessive, particularly for institutions with default rates of 10.0 percent or less, and should be eliminated.

Response: A change has been made. The Secretary has clarified the regulation in § 674.50(c) to state explicitly that all institutions must certify in writing that due diligence required under Subpart C has been exercised on each loan submitted for assignment, but that documentation supporting institutional compliance with all of the due diligence requirements need not be submitted if the institution has a default rate of 7.5 percent or less as of June 30 of the second year preceding the submission period.

Comment: A few commenters stated that the regulations should not require submission of the "original promissory note" as part of the assignment procedure, since originals are sometimes lost in the process of litigation. The commenters proposed that the regulations should state "certified original copy" of the promissory note.

Response: A change has been made. The Secretary concurs with the commenters. The words "or certified copy of the original note," have been added to § 674.50(c)(2).

Comment: One commenter opposed the requirements in proposed § 674.50(c)(5) that copies of all approved requests for deferment and cancellation must be submitted with notes submitted for assignment. The commenter believes that this proposal is neither feasible nor cost-effective.

Response: No change has been made. In collecting assigned loans, the Department frequently encounters disputes about alleged deferments. Adequate documentation regarding all such requests is therefore essential to the Government's collection action in these accounts.

Comment: One commenter stated that proposed § 674.50(c)(7), requiring documentation that the institution has withdrawn the account from any firm that it employed for address search, billing, and collection or litigation services, would be an unnecessary burden on institutions.

Response: No change has been made. In the experience of the Department, a failure by the institution to recall assigned accounts from its collection firms causes confusion for the debtor and the Department and requires a considerable amount of time and effort by the Department to correct. These

problems justify imposing on institutions the added step of documenting that they have in fact done what they were required to do upon relinquishing their interest in the note to the United States.

Comment: One commenter stated that a Chapter 7 discharge or a Chapter 13 hardship discharge has no effect on a loan which is within the five-year period, and suggested that proposed § 674.50(d)(1) should clarify that no entry of judgment is required if the loan is expected from discharge under 11 U.S.C. 523(a)(8), and should permit assignment of this kind of loan if litigation would not otherwise be required under these rules.

Response: No change has been made. The rule requires the institution to secure either a judgment and a determination by the bankruptcy court that the loan to be assigned is nondischargeable, or a judgment on the loan obligation after entry of a general discharge order, not merely to secure an interpretation of the effect of a general discharge order on a student loan, but to make enforcement of such loans in the hands of the Government more cost-effective. The purpose of the assignment provisions of the statute is to enable the Department to recover the Federal investment in assigned, defaulted loans.

No reasonable prospect of recovery exists on a loan discharged in bankruptcy, and recovery on loans which are dischargeable on a showing of undue hardship can be expected to involve costs beyond those typically encountered in enforcing other defaulted loans. It is reasonable to expect that borrowers owing a dischargeable loan assigned to the Government will respond to a Federal demand for payment not only by asserting the defenses they might assert on the loan itself, but also by seeking to reopen their bankruptcy proceeding and demonstrate undue hardship. The institution should reasonably be expected to meet those costs under circumstances described in the final rule in order to sustain its own Fund and to establish a credible deterrent to ready recourse by its borrowers to relief in bankruptcy. The Federal Government, which has already supported the institution's collection costs, accepts assignments in order to generate revenues. It is not cost-effective for it to spend the additional time and staff resources needed to deal with these bankruptcy-related challenges in order to recover on this particular category of assigned loans. In order to assure that enforcement of loans included in a previous bankruptcy case will not be disproportionately more costly than collection of other assigned loans, it is reasonable to accept only those loans for which the institution, which currently derives financial benefit from the assignment in the form of a reduced default rate, to secure either a judicial determination of enforceability of the loan from the bankruptcy court, or from another court in which the borrower had the opportunity to assert the defense of a discharge in bankruptcy, but failed to do so.

Comment: A few commenters suggested that proposed § 674.50(d)(2) be amended to permit assignment following unsuccessful efforts by an institution to collect in the courts. The commenters expressed the belief that this proposed provision will discourage institutions from litigating difficult cases.

Response: This provision is now found in § 674.50(e)(2); no other change has been made. For the same reasons that make a judicial determination of enforceability a reasonable condition for assignment of a loan owed by a borrower who has resorted to bankruptcy, a judgment is a reasonable prerequisite for assignment of those loans which should be litigated as an element in the performance of the institution's due diligence responsibilities. The commenter, moreover, has identified precisely those loans on which this requirement is most reasonably imposed. Except with regard to claims of the defense of infancy, to which a variety of rejoinders are almost always available, in this Department's considerable experience in attempting collection on hundreds of thousands of assigned student loans, the cases described in the comment as difficult cases are difficult because of some action or inaction by the institution which the borrower claims to have caused injury and to bar enforcement of the loan obligation. It is difficult for the Government to respond to such charges, since the information needed to sustain or dispute the charges is solely in the hands of the assigning institution, which, for any of a number of reasons, may not provide the information to the Department as needed to rebut effectively the defense and recover on the loan. Not only does the Department typically lack the information needed to respond to borrower defenses, but it is hardly fair for the institution to derive the benefits now available from the assignment while the Department bears the expense and litigative risk in pursuing the borrower on these loans.

Comment: Several commenters believed that proposed § 674.50(f), which would require an institution to indemnify the Fund for any note found to be unenforceable after assignment, was unnecessary and vague and should be eliminated. One commenter believed that the term "indemnify" legally means that some type of insurance must be provided in case the note is not a legally binding instrument, and that the statute does not require an institution to purchase insurance. One commenter believed that State laws which provide that no officer or agency of the State may contract any indebtedness on behalf of the State or assume to bind the State in an amount in excess of the amounts appropriated by the legislature unless expressly authorized by law, prevented compliance with the indemnification requirements in the proposed rule.

Two commenters believed this requirement was unfair unless, in the event that an assigned account is found at a later date to lack needed documentation, the Department were to provide, at the request of an institution, a second review of the loan account and the institution's performance of due diligence before making a final determination.

One commenter questioned the unilateral determination of unenforceability in proposed paragraph (f). The commenter questioned the definition of "legally unenforceable" and asked whether an account is considered to be "legally unenforceable" when the statute of limitations has expired but when the account is still considered by the institution to be a viable obligation which may be collected through such nonjudicial remedies as offset and withholding of services.

Response: No substantive change has been made. The provision that the Secretary may determine, with or without a judicial determination, that an assigned loan is not legally enforceable and that the institution must reimburse the Fund for the amount of the loan he determines to be legally unenforceable, rests on the nature of the institution's responsibilities as a trustee of the loan Fund. By accepting responsibility for the administration of the loan Fund, the institution accepted a fiduciary responsibility with regard to the administration of assets of the Fund, including the duty to make and collect loans from the Fund in a competent manner, and the duty to avoid actions which would undermine or destroy the value of the loan obligations, which obviously constitute the primary asset of the loan Fund. The responsibility of the institution as trustee of Fund assets has long been recognized by the Department, and these particular

applications of that responsibility rest on traditionally recognized principles of common law. Moreover, as the grantor of this trust and its residual beneficiary, the Department obviously has the authority and responsibility to identify those instances in which Fund assets have been lost or rendered valueless because of the actions or omissions of the institution, and to demand that the institution reimburse the Fund for the amount of loss caused by that act or omission.

The comments that the use of the term "indemnify" implies that the institution must secure insurance for its actions with regard to the Fund, and that the statute does not authorize the imposition of such a cost, plainly miss this point, as does the comment that an institution need not comply with this provision if it is subject to a State law limiting the authority of a State officer or agency to agree to indemnify another unless funds are appropriated for that purpose. The proposed rule did not require an institution to secure an insurance policy for itself, or to enter into some new indemnification agreement with the Department. The rule merely articulated the responsibility the institution had already assumed by virtue of its existing relationship with the Department with regard to the Fund. To avoid misunderstanding, however, the final rule replaces the words "indemnify the Fund" with the more general terms "reimburse the Fund" to describe the responsibility of the institution.

The comment that "legally enforceable" means enforceable by lawful means, as opposed to merely enforceable by lawsuit, is well-taken, and the Secretary wishes to clarify that to the extent that the Department has collected an assigned loan, particularly by offset against a Federal tax refund, that loan was legally enforceable, whether or not the judicial statute of limitations had expired on the loan. Opportunities for offset by the Secretary are, at this time, quite limited: the statutory authority for tax refund offsets now extends only through December 31, 1987, and the only other prospect for offsets lies with those payments due to debtors who are identified as Federal employees.

As a practical matter, therefore, the term "enforceable," as used in these regulations, now means enforceable by the Secretary by way of lawsuit. Recent amendments to the Act may make this issue as it involves application of the statute of limitations moot for the present: section 484A of the Act, added by Pub. L. 99–272, provides a six-year limitation period, commencing on the date of assignment of the loan to the Secretary, for suits by the United States to enforce assigned loans. 20 U.S.C. 1091a(a)(4)(C). Consistent with case law governing the applicability of statutes of limitation, the Secretary considers this statute to provide the United States a full six-year period for collection litigation, from the date of assignment, whether or not any period of limitation previously applicable to that account had expired. Because of this provision, therefore, it does not appear likely that the loans assigned in the near future under this regulation will be unenforceable by virtue of the running of a statute of limitations.

As to other defenses, such as misrepresentation or failure of consideration, however, the United States as assignee of the loan enjoys no special protection. Moreover, unlike questions of the running of the period of limitations, which are more typically resolved with a minimum of documentation, the United States is unavoidably and totally dependent on the institution when confronted with defences raised by debtors based on claims of fraud, misrepresentation, and various forms of failure of consideration. Defending against these kinds of charges will require the United States to expend a considerable amount of time and effort in retrieving from the institution documents that may have been lost or discarded and identifying witnesses who may long since have left its employ or had their recollection dimmed by time. The Secretary therefore considers it reasonable to require the institution to reimburse the Fund in those cases in which he determines that allegations of these kinds of defenses are credible and would make successful enforcement of the loan doubtful. The institution will acquire title to the loan note upon making reimbursement to the Fund. If the institution disagrees with the determination that the loan is not enforceable, it may then attempt to secure a judgment on the loan in order to make itself whole for the reimbursement to the Fund.

The Secretary wishes to recover on assigned loans to the greatest extent practical and cost-effective, and has no interest in peremptorily finding a loan to be uneforceable. The Secretary therefore has every reason to permit an institution to supplement its documentation on a previously assigned account where doing so would not jeopardize Federal efforts to enforce the loan. Because it is in the interests of both the Department and the institution to handle this sort of supplementary action on an informal and expedited basis, the Secretary sees no need to prescribe procedures in these rules to govern this transaction.

Comment: Several commenters objected to the proposed § 674.50(g) which would require an institution to consider a loan in default after assignment, if the rule means that after an account is assigned, the institution must still withhold registration, transcripts, or placement services from that debtor. The commenters stated that assignment terminates the institution's title and equity in the loan, leaving no legal basis for taking further action against the borrower. One commenter recommended that if this provision were to be implemented, the Department should indemnify the institution for any suit filed by a borrower against the institution based on collection efforts after assignment. Two commenters asked what effect this paragraph would have on the institution when computing the default rate. One commenter stated that the institution should not be required to classify the borrower in default status for the purposes of reporting, default rate calculation and funding.

Response: A change has been made. The Secretary has amended § 674.50(h) of the final regulation by clarifying that no further financial aid should be awarded to a borrower whose defaulted Perkins Loan(s) have been assigned unless the borrower has made satisfactory arrangements to repay. This is required under section 484(a)(3) of the Act. The institution need take no further action to collect the loan. The institutional default rate will be calculated each year on the basis of information provided in the annual Fiscal Operations Report as of June 30. Notes reported as having been assigned and accepted by the U.S. Government are not included in the institutional default rate.

Comment: Several commenters stated that money collected on assigned notes after the costs of collection have been met should be redistributed to institutions according to the fair share process.

Response: No change has been made. Although section 463(a)(5)(B) of the Act permits the Secretary to reallocate those amounts to institutions, the Secretary does not intend to implement this authority at this time because of the overarching need to reduce the Federal deficit and the continuing high subsidy of Perkins loans.

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DEPARTMENT OF EDUCATION

34 CFR Part 673

Income Contingent Loan Program Demonstration Project

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Higher Education Amendments of 1986 authorize the Secretary to implement an Income Contingent Direct Loan Program Demonstration Project (ICL Demonstration Project) beginning with the 1987–88 award year. The ICL Demonstration Project will examine the feasibility of a direct loan program which uses the income contingent repayment method in order to increase the economic and full use of direct student loan funds. The Secretary is proposing regulations to implement the Due Diligence procedures for the ICL Demonstration Project.

DATES: Comments must be received on or before December 30, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to William L. Moran, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW., [Regional Office Building 3, Room 4100,] Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Carney McCullough, (202) 732–4888.

SUPPLEMENTARY INFORMATION:

The Secretary recently promulgated final rules governing those aspects of the Income Contingent Loan (ICL) Demonstration Project other than the billing and collection of ICL loans. The Secretary now proposes rules for this aspect of the ICL program, and the comment document for these rules is the text of the Perkins Loan Program, Subpart C, 34 CFR Part 674 which is published in this issue of the **Federal Register**. The Secretary proposes to adopt similar rules as Subpart E—Due Diligence of the ICL Program Demonstration Project.

These ICL due diligence regulations would require each institution participating in the ICL Program to inform ICL borrowers of their rights and responsibilities, to attempt to collect from borrowers, and, under certain conditions, to sue defaulted borrowers. The Secretary intends to utilize the Perkins Loan Program due diligence requirements for the ICL Program with modifications necessary to address those issues which are unique to the ICL Program, in particular, the timely collection of information on the income of the borrower and his or her spouse necessary to determine the borrower's annual payment obligation. The Secretary requests comment on whether the procedures required under Perkins rules for past-due payments, in particular those in § 674.44, should be followed with regard to delays in submission of needed income information. The Secretary does not propose to accept the assignment of defaulted ICLs on a routime basis and, therefore, may modify the final regulations accordingly.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities because participation in the ICL Demonstration Project is limited to ten institutions of higher education.

Paperwork Reduction Act of 1980

Sections 674.42, 674.43, 674.45, 674.47, 674.48, 674.49, and 674.50 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 354(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation of Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, ROB–3, 7th and D Streets, SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 673

Education, Loan Programs—education, Student Aid.

(Catalog of Federal Domestic Assistance Number N/A)

Dated: November 4, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–27421 Filed 11–27–87; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Monday
November 30, 1987

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25, 121, and 135

Standards for Approval of a Reduced V_1 Methodology for Takeoff on Wet and Contaminated Runways; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, and 135

[Docket No. 25471; Notice No. 87-13]

Standards for Approval of a Reduced V_1 Methodology for Takeoff on Wet and Contaminated Runways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V_1) methodology for takeoff on wet and precipitation contaminated runways. This proposal emanated from the Transport Airplane Takeoff Performance Requirements Conference held in Seattle, Washington, during the week of November 16, 1981. Reduced braking friction as a result of a slippery runway condition has been a contributing factor in numerous rejected takeoff accidents. This proposal to lower V_1 by allowing a reduced clearance over the end of the runway (screen height) would provide an increase in safety for rejected takeoffs on wet and contaminated runways.

DATE: Comments must be received on or before March 30, 1988.

ADDRESSES: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25471, 800 Independence Avenue SW., Washington, DC 20591; or delivered in triplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 25471. Comments may be examined in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be examined in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dennis E. Whitmire, Transport Standards Staff, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2119.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments in triplicate to the Rules Docket address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available in the Rules Docket, both before and after the comment period closing date, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25471." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

A public technical conference was held in Seattle, Washington, during the week of November 16, 1981, to solicit and review information on the subject of takeoff performance requirements for transport category airplanes. The conference was attended by over 300 foreign and domestic airworthiness representatives. Several questions were discussed at the conference, as announced in the **Federal Register** (46 FR 39558; August 3, 1981). This notice results primarily from discussions concerning those questions making up the conference agenda.

Following the conference, an FAA technical committee was formed to review and summarize the information presented during the conference. On July 16, 1982, the committee submitted its findings and recommendations to the FAA Transport Airplane Certification Directorate in Seattle, Washington, and to the Associate Administrator for Aviation Standards in Washington, DC. Subsequently, the FAA requested that an industry group be formed to further review all of the agenda items discussed at the conference. To accomplish this review, the Joint Aviation/Industry Landing and Takeoff Performance Task Group was formed. This Task Group was comprised of a broad spectrum of U.S. aviation industry representatives, including representatives of the Air Transport Association of American (ATA), Aerospace Industries Association of America (AIA), the Air Lines Pilots Association (ALPA), the Flight Safety Foundation (FSF), the National Air Carrier Association, Inc. (NACA), and others. The Task Group involvement was viewed as beneficial by the FAA for the purpose of obtaining direct industry participation and the predominant industry viewpoint on a number of longstanding, complex, technical issues. In its review, the Task Group utilized the FAA technical committee's report and generally endorsed the FAA committee's recommendations.

One of the topics discussed at length during the conference was Agenda Item II, Contaminated Runway Accountability and Wet Runway Reduced V_1. The FAR require presentation of takeoff performance for various airplane weights and airport altitudes and temperatures. Takeoff performance must be determined with consideration given to the possibility of an engine failure during the takeoff run. The takeoff distance required for a given set of conditions is therefore the longer of: (1) 115 percent of the distance to takeoff and climb to a height of 35 feet above the takeoff surface with all engines operating, or (2) the distance to accelerate to the takeoff decision speed V_1, where an engine failure is assumed to be recognized, and from that speed

either continue the takeoff to a height of 35 feet above the takeoff surface, or initiate a rejected takeoff and bring the airplane to a complete stop.

The takeoff decision speed, V_1, is a variable and is adjusted to permit the distance requirements for the accelerate-go or the accelerate-stop to be met simultaneously. This speed is determined prior to departure using performance charts in the airplane flight manual (AFM) and/or operations manual. It is chosen such that during the takeoff acceleration, if an engine failure or other emergency is recognized, the airplane can be brought to a stop on the remaining runway if action to reject the takeoff has been initiated before exceeding V_1. If an engine failure or other emergency is recognized upon reaching or after exceeding V_1, action to continue the takeoff will result in the airplane reaching the required screen height over the end of the runway.

The FAA initiated this proposed rulemaking based upon discussions of Agenda Item II and a proposal made by a conference participant. The following is a summary of the discussions during the conference concerning this agenda item.

The AIA proposed a wet runway operating concept whereby the runway distance available for the stopping phase of a rejected takeoff would be increased, with no increase in required takeoff field length. This concept would retain the present definition of required takeoff field length as described in § 25.113 of the FAR. However, it would provide for lower takeoff decision speeds by allowing the clearance over the end of the runway (screen height) to be decreased to a minimum of 15 feet in lieu of the presently required 35 feet. This reduction in screen height and resulting decrease in V_1 would reallocate the available runway to provide a greater proportion for the stopping phase of the accelerate-stop distance. This would thereby favorably redistribute the risk between continued takeoffs and rejected takeoffs by providing more stopping distance for a rejected takeoff on a slippery runway surface.

One conference participant presented data which indicated that the reduced screen height concept would significantly reduce the time interval during which an airplane might be exposed to a potential overrun if the takeoff were rejected on a wet runway. This rejected takeoff (RTO) exposure time is defined as the interval of time prior to V_1 in which an engine can fail with the result that an RTO initiated during that time interval will result in an actual accelerate-stop distance that exceeds the scheduled runway distance. Industry studies, which assumed a wet runway braking force of 50 percent of the dry runway braking force and no reverse thrust, indicated that with V_1 chosen to provide a 15-foot screen height, the wet runway exposure time is reduced by 75 percent or more for four-engine airplanes and by approximately 30 percent for two-engine airplanes, with three-engine airplanes being in between. For many weight and ambient temperature conditions, the exposure time is reduced to zero.

Several participants stated that, as a result of their evaluation of RTO accidents in which fatalities occurred, they have concluded that lower decision speeds can have a significant, beneficial impact on the fatality rate. One participant, who presented a review of U.S. air carrier accidents which involved striking obstacles after liftoff, noted that none of these accidents resulted in fatalities. This leads to the conclusion that the relative risk of fatality is greater in a rejected takeoff, and that the rescheduling of takeoff decision speeds to increase the available stopping distances would provide a favorable redistribution of risk because it would reduce the probability of RTO overruns on wet runways. Various participants agreed that this rescheduling would result in an insignificant increase in the probability of unsafe encroachment on climb profile margins, and that an overall improvement in the level of safety would be achieved.

One participant presented data on takeoff accidents for the past 23 years of jet aircraft operation in the free world. These data indicated that 83 percent of the takeoff accidents involved aborted takeoffs. Another participant noted that the majority of the fatalities which were associated with aborted takeoffs resulted from those initiated from speeds above V_1, and that in the last five years these accidents have greatly diminished.

One conference participant stated that the additional data required to reschedule V_1 speeds can be supplied to the operators relatively quickly. The AIA has defined a simple procedure which makes these data available by an addition to AFM data pertaining to use of clearways.

Several participants expressed concern that a lower V_1 speed would encourage a hesitant crew to make the decision to continue the takeoff. In many RTO accident cases examined, the decision to abort was made late. In such instances a lower V_1 would have further encouraged the crew to make the decision to continue the takeoff. In retrospect, this may have been a safer course of action.

Some participants stated that a major advantage of the reduced screen height concept is that it does not require detailed definition of runway friction characteristics and that this concept effectively protects airplanes on runways having a slipperiness equal to most wet runways. Numerous participants noted another major advantage is that no change in limiting field length is required. Therefore, there should be little economic impact.

Another participant stated that a 15-foot screen height has been used by the British Civil Aviation Authority (CAA) for many years and that FAA regulatory activity in the area of Automatic Takeoff Thrust Control Systems (ATTCS) has also introduced a 15-foot screen height.

One participant stated that the concept can be adopted, without formal rulemaking, by amendment or revision to airplane operations specifications.

Other participants stated that they do not agree with the concept of reduced screen height. In particular, they do not believe it is appropriate to reduce the obstacle clearance flight path.

Several participants indicated that it was not intended that the reduced screen height concept be used except when operating from a wet runway. It was also indicated that it was not intended that the concept would ever be used to increase the dry runway field-length-limited takeoff gross weight. The proponents of the concept were asked explicitly as to whether these were the intentions. The proponents confirmed that the reduced screen height concept was not intended for either use.

Numerous participants agreed that an operational as well as a certification definition of wet runway is needed. The consensus was that, for *operational purposes,* a wet runway should be defined as any runway that is not clear of precipitation contaminents and that is not dry.

FAA Evaluation

The FAA supports the reduced screen height concept in general. This reduction in screen height would reallocate the available runway to provide a greater proportion for the stopping phase of the accelerate-stop distance, thereby reducing the risk of overrun during rejected takeoffs. The FAA does, however, disagree with a portion of the AIA analysis of the proposed 15-foot screen height. That analysis attributed to the proposal additional stopping distances that are, in fact, presently available with the 35-foot screen height

for takeoffs that are not field-length limited or that are all-engine takeoff performance limited. This increased stopping distance is presently available by unbalancing the field length, i.e., permitting the accelerate-stop distance to be less than the accelerate-go distance. In this process the takeoff decision speed is reduced, therby decreasing the accelerate-stop distance. This change does, however, increase the accelerate-go distance. This is possible when there is excess field length available and the takeoff is not field-length limited. Further, the analysis presented by this participant regarding the increase in safety attributable to reduce V_1 did not include takeoffs where V_1 is limited by V_{MCG} (minimum control speed on the ground), i.e., where V_1 cannot be reduced if the result is that V_{EF} (the engine failure speed) would be less than V_{MCG}, as required by § 25.107(a). In these cases, no reduction in exposure time is available without decreasing the takeoff weight.

Two precedents were cited by conference participants for a 15-foot minimum screen height: (1) The British CAA requirements, and (2) the FAA requirements for an ATTCS, which have been proposed as special conditions in the past and have now been adopted (Amdt. 25–62; 52 FR 43152; November 9, 1987). The reduced screen height concept proposed by the FAA is not identical to the CAA wet runway requirements in that weight reductions may be necessary to comply with CAA field length requirements. The reduced screen height concept proposed is predicated on takeoff weights identical to those for a dry runway, except weight reductions may be necessary if the takeoff is obstacle-limited. Although a reduced screen height option was a part of the ATTCS proposal at the time of the conference, it was removed from further consideration after the public comments on Notice 84–4 were resolved.

The FAA recognizes that there is an unknown risk for a continued takeoff when reducing the screen height in an attempt to gain an increase in safety on a wet or precipitation contaminated runway. If the reduced screen height condition were to continue through the entire takeoff flight path, there could be cases where the net flight path would clear obstacles by only 15 feet. The net flight path is the calculated flight path reduced by a gradient of climb to provide an expanding obstacle clearance as distance from the runway increases. Current operating requirements provide that the net flight path clear all identifed obstacles by at least 35 feet. Even though accelerate-go conditions may not seem to have been very critical in the past, as indicated by a history of very few obstacle clearance problems during takeoff, the FAA cannot ignore the potential impact of a reduced screen height on obstacle limited takeoffs. For this reason, this proposal requires the net flight path to clear obstacles by a minimum of 35 feet once the airplane reaches a height of 35 feet above the end of the runway. There may be cases, therefore, where the takeoff is obstacle-limited, that it may be necessary to reduce the takeoff weight in order to take advantage of a lower V_1 and still clear obstacles by a net height of 35 feet.

The FAA has concluded that a significant improvement in safety can be achieved on wet and precipitation contaminated runways, with no increase in takeoff field length required, by implementing an optional reduction in screen height. This reduction in screen height, available only when the runway is wet or contaminated by standing water, slush, snow, or ice, would result in scheduling a reduced V_1 that would rebalance the takeoff field length to a minimum 15-foot screen height. In addition to promoting increased safety on wet and precipitation contaminated runways, this change will encourage operators to be more aware of the benefits of unbalancing the takeoff field length by reducing V_1 in those cases where the operation is not field length limited.

Airplane flight manuals must be modified to incorporate the information required to rebalance the field length and to determine the net flight path that clears obstacles by a minimum of 35 feet when utilizing a screen height of less than 35 feet at the end of the takeoff distance. Conference participants stated that the data to rebalance is readily attainable by use of an equivalent clearway concept wherein existing AFM clearway data could be easily modified to yield the desired information.

Clearways are defined in Part 1 of the FAR, and their applicability in determining takeoff distance is given in § 25.113(b). A clearway is presently available for use in the calculation of takeoff distance if the terrain beyond the end of the runway meets the requirements of the clearway definition. If a clearway is utilized in determining takeoff distance, the height over the end of the runway will be reduced below 35 feet; however, the screen height at the end of the clearway may not be less than 35 feet.

With respect to the comments on a wet runway definition, the FAA considers that definitions of operational wet runways and precipitation contaminated runways would be appropriate. It is planned to incorporate these in an advisory circular on wet and contaminated runway operation. The definition of a wet runway for airworthiness certification is more complex and no definition is proposed at this time, however for the purpose of this proposal, a wet or precipitation contaminated runway is a condition that exists when water, slush, snow, or ice is present on the runway. The advisory circular will also provide guidance on how to account for any effect of precipitation contaminants on airplane acceleration, as required by this proposal.

Regulatory Evaluation

This regulatory evaluation examines the impact of a notice of proposed rulemaking to establish standards for approval of a reduced V_1 (takeoff decision speed) methodology for takeoff on wet and precipitation contaminated runways. This rulemaking has been initiated as a result of findings following a public technical conference held in Seattle, Washington, during the week of November 16, 1981. The purpose of the conference was to solicit and review information on the subject of takeoff performance requirements for transport category airplanes. Of the agenda items discussed at the Takeoff Performance Requirements Conference, one has resulted in this proposed rulemaking: Agenda Item II, Contaminated Runway Accountability and Wet Runway Reduced V_1.

This proposed rulemaking would apply to all transport category airplanes operated under Parts 121 and 135 of the FAR. Manufacturers and operators of these airplanes would be required to include information in the AFM's, operations manuals, airport analyses, and certification data substantiation documents on how to reduce the screen height and maintain a 35-foot minimum net obstacle clearance height when operating on wet and precipitation contaminated runways; however, use of this information by the airplane operators would be optional. This requirement would apply to all newly type certificated airplanes and would be optional for existing airplanes.

The FAA has determined that a significant improvement in safety can be achieved on wet and precipitation contaminated runways, with no increase in required takeoff field length by allowing the clearance over the end of the runway (screen height) to be decreased to a minimum of 15 feet in lieu of the presently required 35 feet.

This reduction in screen height would reallocate the available runway to provide a greater proportion for the stopping phase of the accelerate-stop distance, thereby reducing the risk of overrun during rejected takeoffs. The reduction in screen height would be allowed when the runway is wet or contaminated by precipitants, but would not be required. In this way operators would be free to utilize a reduced screen height in circumstances which would provide the desired safety benefit. These standards would be promulgated by amendments to 14 CFR Parts 25, 121, and 135.

The FAA has determined that this proposed rule would provide a net benefit to the public in terms of decreased accidents. The discounted value of the benefit over the 10-year period for 1987 to 1996 is approximately $35.35 million. The FAA calculated the additional costs of implementing the proposed rule due to revisions required to the AFM, operations manuals, and airport analyses. The value of this one-time cost is approximately $15.51 million. Therefore, the benefit to cost ratio is 2.28 to 1.

The FAA has determined that the proposal will not have a significant economic impact on a substantial number of small entities and that the proposal will not affect international trade.

With respect to airplane manufacturers, the FAA has determined that airplane and airplane parts manufacturers are small if they have 75 or fewer employees. The airplane manufacturers subject to the terms of this proposal are all large firms. Only five current U.S. firms have certificated airplanes under Part 25, and the smallest, Gates Lear Jet, has an estimated 6,500 employees. (Million Dollar Directory—1983, Dunn and Bradstreet Inc.)

Since the proposal may add a small amount to the price of new airplanes, there may be an impact on small entities which are operators of airplanes. The FAA has determined that for operators of airplanes for hire, small entities are those which own nine or fewer airplanes. The FAA has determined that the significant cost thresholds for "operators of airplanes for hire" are $85,070 for scheduled operators with airplanes having 60 or more seats, $47,506 for other scheduled operators, and $3,315 for unscheduled operators (1983 values). The cost increase for new airplanes manufactured under the standards of this proposal is expected to be insignificant. To feel any impact from this proposal, the typical small entity operator of large airplanes would have to buy so many airplanes that he would cease to be a small entity. There are thousands of small entities who are unscheduled operators, but only a few which operate large airplanes. In this type of entity, the cost increase could seemingly reach a level of significant economic impact because of the low annual cost threshold. However, the overwhelming majority of unscheduled operators are on-demand air taxis, which operate small airplanes that are not subject to the requirements of this proposal. In view of the above, the FAA has concluded that compliance with these proposals would not result in a significant economic impact for a substantial number of small entities.

This proposal, if adopted, would have little or no impact on trade opportunities for both U.S. firms doing business overseas and foreign firms doing business in the U.S. The proposal affects the rules for certificating new airplanes and optionally applies to airplanes already in service. Airplanes for the U.S. market, whether made by U.S. or foreign manufacturers, would be affected by the rule. Any cost of compliance is negligible, however, when compared to the cost of a new airplane.

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. The FAA has also determined that this action is not significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, it is certified under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

14 CFR Part 25

Aviation safety, Aircraft, Air transportation, Safety, Tires.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air traffic control, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Pilots, Transportation, Common carriers.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Airworthiness, Pilots, Aircraft, Airports, Transportation, Air traffic control, Airspace, Airplanes.

The Proposed Amendments

Accordingly, the Federal Aviation Administration (FAA) proposes to amend Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) (14 CFR Parts 25, 121, and 135) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 is revised to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 49 CFR 1.47(a).

2. By amending § 25.1583 by adding a new paragraph (j) to read as follows:

§ 25.1583 Operating limitations.

* * * * *

(j) *Reduced V_1 limitations.* Limitations must be furnished that the V_1 speeds determined in accordance with § 25.1587(b)(6) may not be used:

(1) On runways that are clear of precipitation contaminants or that are dry;

(2) With credit for an existing clearway;

(3) With an armed automatic takeoff thrust control system (ATTCS), reduced thrust or any thrust setting less than the maximum takeoff thrust setting approved for operation at the existing ambient conditions; or

(4) Unless the effect of precipitation contaminants on airplane acceleration is considered.

3. By amending § 25.1587 by adding new paragraphs (b)(6) and (b)(7) to read as follows:

§ 25.1587 Performance information.

* * * * *

(b) * * *

(6) Information for determination of reduced V_1 speeds which allow a height of not less than 15 feet at the end of the takeoff distance determined in a manner otherwise identical to that described in § 25.113(a). The V_1 speed determined in accordance with this paragraph must meet the requirements of § 25.107(a).

(7) Information on how to determine the net flight path, when utilizing a screen height of less than 35 feet at the end of the takeoff distance in accordance with paragraph (b)(6) of this section, that will clear all obstacles by a height of at least 35 feet vertically once the airplane is 35 feet above a suface as defined in §§ 121.189(d)(3) or 135.379(d)(3) of this chapter.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

4. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983) and 49 CFR 1.47(a).

5. By amending § 121.189 by adding new paragraphs (d)(3), (h) and (i) to read as follows:

§ 121.189 Transport category airplanes: Turbine engine powered; Takeoff limitations.

* * * * *

(d) * * *

(3) When using the V_1 speed determined in accordance with § 25.1587(b)(6) of this chapter, the requirements of paragraph (d)(1) or (d)(2) of this section must be met. However, before reaching a height of 35 feet, the flight path may be less than 35 feet above an obstacle if the obstacle is below a plane extending from the end of the runway with an upward slope not exceeding 1.25 percent, is more than 250 feet from the extended centerline of the runway, or is a threshold light, the height of which is 26 inches or less above the end of the runway, located to either side of the runway.

* * * * *

(h) When operating a turbine powered transport category airplane on a wet or precipitation contaminated runway, the following limitations apply:

(1) The engines must be operated at the maximum takeoff thrust approved for operations at the existing ambient conditions; and

(2) The antiskid system, if installed, must be operative.

(i) When taking off a turbine powered transport category airplane utilizing a V_1 speed resulting in a height less than 35 feet at the end of the takeoff distance in accordance with § 25.1587(b)(6) of this chapter, the limitations of paragraph (h) of this section, and the following limitations apply:

(1) The runway may not be clear of precipitation contaminants and may not be dry;

(2) The takeoff gross weight may not exceed the maximum allowable gross weight permitted to attain a minimum height of 35 feet at the end of the takeoff distance for existing ambient conditions in accordance with § 25.113(a) of this chapter; and

(3) The height at the end of the takeoff distance may not be less than 15 feet.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

6. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 49 CFR 1.47(a).

7. By amending § 135.379 by adding new paragraphs (d)(3), (h) and (i) to read as follows:

§ 135.379 Large transport category airplanes: Turbine engine powered: Takeoff limitations.

* * * * *

(d) * * *

(3) When using the V_1 speed determined in accordance with § 25.1587(b)(6) of this chapter, the requirements of paragraph (d)(1) or (d)(2) of this section must be met. However, before reaching a height of 35 feet, the flight path may be less than 35 feet above an obstacle if the obstacle is below a plane extending from the end of the runway with an upward slope not exceeding 1.25 percent, is more than 250 feet from the extended centerline of the runway, or is a threshold light, the height of which is 26 inches or less above the end of the runway, located to either side of the runway.

* * * * *

(h) When operating a turbine powered transport category airplane on a wet or precipitation contaminated runway, the following limitations apply:

(1) The engines must be operated at the maximum takeoff thrust approved for operations at the existing ambient conditions; and

(2) The antiskid system, if installed, must be operative.

(i) When taking off a turbine powered transport category airplane utilizing a V_1 speed resulting in a height less than 35 feet at the end of the takeoff distance in accordance with § 25.1587(b)(6) of this chapter, the limitations of paragraph (h) of this section and the following limitations apply:

(1) The runway may not be clear of precipitation contaminants and may not be dry;

(2) The takeoff gross weight may not exceed the maximum allowable gross weight permitted to attain a minimum height of 35 feet at the end of the takeoff distance for existing ambient conditions in accordance with § 25.113(a) of this chapter; and

(3) The height at the end of the takeoff distance may not be less than 15 feet.

Issued in Seattle, Washington, on November 20, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–27363 Filed 11–27–87; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
November 30, 1987

Part V

Department of the Interior

Office of the Secretary

43 CFR Part 2

Records and Testimony; Freedom of Information Act; Final Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Records and Testimony; Freedom of Information Act

AGENCY: Office of the Secretary, Interior

ACTION: Final rule.

SUMMARY: This final rule amends the Freedom of Information Act (FOIA) regulations of the Department of the Interior to incorporate the changes concerning fee charges, fee waivers and law enforcement records made by the Freedom of Information Reform Act of 1986. The revisions conform to the provisions of the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget on March 27, 1987 and the Executive Order 12600 of June 23, 1987 pertaining to predisclosure notification procedures for confidential commercial information. The rule also clarifies the Department's submitter notice procedures, and revises, updates and simplifies the Department's procedures governing submission and consideration of FOIA requests.

EFFECTIVE DATE: December 30, 1987.

FOR FURTHER INFORMATION CONTACT: Richard A. Stephan, Division of Directives and Regulatory Management, Office of Management Analysis (202) 343–6191.

SUPPLEMENTARY INFORMATION: On May 12, 1987, the Department of the Interior published for comment in the **Federal Register** a proposed rule amending its Freedom of Information Act regulations on fee charges, fee waivers and law enforcement records to reflect the Freedom of Information Reform Act of 1986. The Department also proposed to clarify its submitter notice procedures, and to revise, update and simplify its procedures governing submission and consideration of FOIA requests. The preamble to the proposed rule described the basis and purpose of the amendments. 52 FR 17780.

By the end of the comment period, June 11, 1987, the Department of the Interior had received seven public comments representing four identifiable categories of commentators: Representatives of the news media (1); Public interest groups affiliated with the news media (1); Other public interest groups (3); and Indian organizations (2).

A summary of the comments and the Department's responses follows.

1. *Submission of requests.* One commenter objected to proposed § 2.14(c), which provides that a FOIA request "may not seek" creation of records. The commenter pointed out that creation of records may be to the advantage of both the agency and the requester. This comment in meritorious. While the law is quite clear that an FOIA requester may not require an agency to create a new record, there may be instances where doing so will be less burdensome on the agency and the requester than disclosing large volumes of unassembled material.

Accordingly, § 2.14(c) is modified to state that a request "may not require" creation of new records, making clear that the Department may, in its discretion, agree to creation of a new record as an alternative to disclosing existing records.

2. *Submitter notice.* One commenter objected to inclusion of the submitter notification procedures proposed in § 2.15(d). The commenter argued that these procedures "undermine the mandatory disclosure procedures" of the FOIA and may impair timely response to requests. The Department does not agree. The proposed submitter notice procedures, which formalize longstanding Departmental practice, are designed to assure that the Department has sufficient information to reach disclosure decisions that take full account of both the public's rights to access to information and the rights of third party submitters of information reflected in the FOIA's exemptions. The procedures are drafted to provide for prompt consultation with submitters and require that requesters be notified if consultation cannot be concluded within the Act's time limits.

Subsequent to issuance of the Department's proposed rule, the President issued Executive Order 12600 (June 23, 1987), which requires agencies to adopt submitter notice procedures. The Department has reviewed its proposal in light of the Executive Order and finds that, with minor exceptions, it conforms to the Order's requirements. Changes made in the final rule in response to the Executive Order are the following: (1) A provision is added to § 2.15(d)(1) allowing for notification of a voluminous number of submitters by posting or publishing a notice in a place reasonably calculated to accomplish notification. (2) The notification exception in § 2.15(d)(4)(v) is modified to indicate that submitters will be notified of requests for information that they did not designate as confidential at the time of submission if there is substantial reason to believe that disclosure of the information would result in competitive harm. (3) A new § 2.15(d)(5) provides for notification to submitters of litigation seeking to compel disclosure of information. (4) In accordance with section 8(f) of the Executive Order, § 2.16(b) is modified to provide that submitters who have not been consulted on a request because their claims of confidentiality have been found frivolous will be notified before the requested information is disclosed.

The Executive Order provides for its full procedures to be phased in, effective January 1, 1988. Because the Department's submitter notification procedures are based on past Departmental practice, the Department has decided not to avail itself of this option.

3. *Fee Charges.* Four commenters addressed comments to provisions in proposed § 2.20(b)–(e) defining the various categories of FOIA requests for purposes of fee charges. These provisions are intended to implement 5 U.S.C. 552(a)(4)(A)(ii), as amended by the Freedom of Information Reform Act, and are based on the final Uniform Fee Schedule and Guidelines published by the Office of Management and Budget on March 27, 1987 (52 FR 10012–20).

Two commenters objected generally to the Department's reliance on the OMB guidelines, arguing that the Freedom of Information Reform Act authorized OMB to issue only a fee schedule, not guidance on the categories of requests. The Department does not agree. As is clearly reflected in section 552(a)(4)(A)(ii), differing levels of fees for different categories of requests are an essential element of agency fee schedules. To assure uniform treatment on a Governmentwide basis, definition of these categories is as important as establishment of fee levels. In any event, the Department, based on its own examination, believes the guidelines to reflect a sound construction of the statute.

One commenter stated that the definition of "commercial use request" should be changed to cover only requests from commercial entities. This recommendation is inconsistent with the plain language of the Reform Act. The "news media" and "educational or noncommercial scientific institution" categories defined by the statute turn, in whole or part, on the identity of the requester. The wording of the commercial use category, in contrast, refers only to the use to which requested information will be put. Although commercial use requests will normally be made by commercial, profit making entities, it is possible that other entities or individuals may seek records for a commercial or profit purpose.

The same commenter suggested that the definition of commercial use should

specifically exclude media requests. The Department agrees that, under the statute, requests from representatives of the news media are not commercial use requests, even though the employing organization may be in business to make a profit. However, the Department believes that inclusion of a separate definition for news media requests is sufficient to make clear the status of such requests.

Two commenters commented on the definition of "educational institution" requests. One commenter suggested that the Department should define educational institution by reference to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This suggestion is not helpful because tax deductible status under section 501(c)(3) is not limited to educational institutions. The question of distinguishing educational institutions from other entities is thus left open. The second commenter suggested that educational institution be defined to include any entity or person that conducts research, compiles information and makes it available to the public for educational purposes. As did OMB in response to similar comments, the Department believes that this comment is insufficiently discriminating. The comment confuses the question of whether a requester is entitled to the fee rate for educational institutions with the separate question of whether the requester, whatever his or her institutional status, is entitled to waiver of otherwise applicable fees under the fee waiver provision of 5 U.S.C. 552(a)(4)(A)(ii).

One commenter suggested that the definition of noncommercial scientific institution should extend to institutions engaged in either scientific research or scholarly research. The Department rejects this suggestion for the same reason that similar suggestions were rejected by OMB. Since the Freedom of Information Reform Act and its legislative history recite the formula "educational or scientific institution/scholarly or scientific research", it seems clear that the phrase was meant to be read disjunctively so that scholarly applies to educational institutions and scientific applies to noncommercial scientific institutions.

Four commenters objected to the definition of "news" in § 2.20(d)(3)(i) as "information about current events or that is (or would be) of current interest to the public." The primary basis of these objections was that application of the definition could require the Department to judge whether particular requested information was of current and newsworthy interest. This reading of the definition is not correct. The issue in determining whether a requester is entitled to the fee rate for representatives of the news media is whether the requester represents an entity that is in the business of disseminating the news as a general proposition, not whether the particular information sought by the requester is information that ought to be published. The Department believes that § 2.20(d)(3)(1), as written, reflects this understanding of the statute.

Two commenters questioned the treatment in § 2.20(d)(3)(ii) of free-lance journalists. The Department believes that this treatment is an appropriate effort to separate legitimate free-lance journalists from persons who claim this status without foundation, but has added "evidence of a specific free-lance assignment from a news organization" to the list of examples demonstrating journalistic status. This addition recognizes that free-lance assignments are not always reduced to a publication contract. The Department has not, however, adopted one commenter's suggestion that determination of free-lance status should turn, *inter alia*, on the likelihood of publication based on the information requested. This approach would put the Department in the position of making news judgments, something to which the same commenter objected in connection with the definition of news.

One commenter argued that the Department does not have authority to adopt proposed § 2.20(f), which permits the Department to delay processing a request if the requester has not provided required information concerning the category in which the request falls. The Department believes that authority is provided by the requirement in 5 U.S.C. 552(a)(3) that requests meet the procedural requirements of agency rules. If a requester does not supply information on the category in which his request falls, the requester has not submitted a technically valid request. Inclusion of § 2.20(f) is particularly important because the catch-all or default fee category provides fees lower than the commercial use fee category, giving an incentive for commercial use requesters to not provide information on their status.

A commenter suggested that the Department should require advance fee payments only from requesters with a history of nonpayment or tardy payments of fees, but not from requesters with no history of payment as proposed in § 2.20(h)(1). The proposed is drawn from the OMB guidelines and the Department believes it to be appropriate. Under the Reform Act, the advance payment threshold is $250.00. When amounts of this size are in question, requiring advance payment in the absence of a payment record is appropriate.

4. *Fee waivers.* Three commenters urged that the Department's rule specifically reject the guidance on fee waivers under the Reform Act issued by the Department of Justice on April 2, 1987. The Department finds this suggestion unhelpful. The Reform Act requires, in 5 U.S.C. 552(a)(4)(A)(i), that agency regulations contain "guidelines for determining when * * * fees should be waived or reduced." Rejection, without more, of the Department of Justice guidance does not meet this affirmative direction. What the Department has attempted to do is to draw on the Department of Justice guidance, as well as the language of the statute, the legislative history, and cases construing the former statutory fee waiver, to develop guidance for members of the public who request fee waivers and for Department employees who must consider these requests.

The Department also finds unhelpful the suggestion of two commenters that it simply adopt the statutory fee waiver language. This approach does not comport with the requirement of the Reform Act that the Department issue guidelines for determining when fees should be waived or reduced.

Three commenters argued that the proposed rule failed to follow the legislative history of the Reform Act and was therefore deficient. As the Department of Justice correctly pointed out in its guidance, the words of the status control where they and the legislative history diverge. However, the Department has carefully reviewed the legislative history and has incorporated some elements from the legislative history in its rule.

Two commenters suggested that the Department's rule provide a presumptive fee waiver for public interest and media organizations. The Department has not adopted this suggestion. The Department agrees that such organizations will be entitled to a fee waiver in many, if not most, instances. However, other requesters may also make valid claims for fee waiver and the Department sees no principled basis on which to give preference to one group of requesters over another. Additionally, focusing solely on the identity of a requester neglects elements of the statutory standard. Each application for a waiver should be considered individually on its

merits taking into account all relevant factors under the statute.

5. Editorial changes have been made in response to comments received from departmental personnel.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). The effects of this document on small entities would be limited to occasions where such entities might file FOIA requests under circumstances in which the new charge to commercial requesters for review costs would increase processing fees. On the other hand, noncommercial small entities may face reduced fee charges.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

This rule is excluded from the National Environmental Protection Act (NEPA) process because it is administrative, financial, legal and procedural in nature, and therefore neither an environmental assessment nor an environmental impact statement is required.

The principal author of this document is John D. Trezise, Office of the Solicitor.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Freedom of Information Act, Privacy Act.

For the reasons set out in the preamble, Title 43, Subtitle A, Part 2, is amended as set forth below.

PART 2—[AMENDED]

1. The authority citation for 43 CFR Part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460.

2. The heading for Part 2 is revised to read as follows:

PART 2—RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

3. Subpart B of 43 CFR Part 2 is revised to read as follows:

Subpart B—Requests for Records

Sec.

Subpart B—Requests for Records

§ 2.11 Purpose and scope.

(a) This subpart contains the procedures for submission to and consideration by the Department of the Interior of requests for records under the Freedom of Information Act.

(b) Before invoking the formal procedures set out below, persons seeking records from the Department may find it useful to consult with the appropriate bureau FOIA officer. Bureau offices are listed in Appendix B.

(c) The procedures in this subpart do not apply to:

(1) Records published in the **Federal Register**, opinions in the adjudication of cases, statements of policy and interpretations, and administrative staff manuals that have been published or made available under Subpart A of this part.

(2) Records or information compiled for law enforcement purposes and covered by the disclosure exemption described in § 2.13(c)(7) if—

(i) The investigation or proceeding involves a possible violation of criminal law; and

(ii) There is reason to believe that—

(A) The subject of the investigation or proceeding is not aware of its pendency, and

(B) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

(3) Informant records maintained by a criminal law enforcement component of the Department under an informant's name or personal identifier, if requested by a third party according to the informant's name or personal identifier, unless the informant's status as an informant has been officially confirmed.

§ 2.12 Definitions.

(a) *Act* and *FOIA* mean the Freedom of Information Act, 5 U.S.C. 552.

(b) *Bureau* refers to all constituent bureaus of the Department of the Interior, the Office of the Secretary, and the other Departmental offices. A list of bureaus is contained in Appendix B.

(c) *Working day* means a regular Federal workday. It does not include Saturdays, Sundays or public legal holidays.

§ 2.13 Records available.

(a) *Department policy.* It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act.

(b) *Statutory disclosure requirement.* The Act requires that the Department, on a request from a member of the public submitted in accordance with the procedures in this subpart, make requested records available for inspection and copying.

(c) *Statutory exemptions.* Exempted from the Act's statutory disclosure requirement are matters that are:

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(ii) Are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than the Privacy Act), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair or an impartial adjudication,

(iii) Could reasonably be excpected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information

compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigtion, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(d) *Decisions on requests.* It is the policy of the Department to withhold information falling within an exemption only if—

(1) Disclosure is prohibited by statute or Executive order or

(2) Sound grounds exist for invocation of the exemption.

(e) *Disclosure of reasonably segregable nonexempt material.* If a requested record contains material covered by an exemption and material that is not exempt, and it is determined under the procedures in this subpart to withhold the exempt material, any reasonably segregable nonexempt material shall be separated from the exempt material and released.

§ 2.14 Requests for records.

(a) *Submission of requests.* (1) A request to inspect or copy records shall be made to the installation where the records are located. If the records are located at more than one installation or if the specific location of the records is not known to the requester, he or she may direct a request to the head of the appropriate bureau or to the bureau's FOIA officer. Addresses for bureau heads and FOIA officers are contained in Appendix B.

(2) *Exceptions.* (i) A request for records located in all components of the Office of the Secretary (other than the Office of Hearings and Appeals) shall be submitted to: Director, Office of Administrative Services, U.S. Department of the Interior, Washington, DC 20240. A request for records located in the Office of Hearings and Appeals shall be submitted to: Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(ii) A request for records of the Office of Inspector General shall be submitted to: Inspector General, Office of the Inspector General, U.S. Department of the Interior, Washington, DC 20240.

(iii) A request for records of the Office of the Solicitor shall be submitted to: Solicitor, Office of the Solicitor, U.S. Department of the Interior, Washington, DC 20240.

(b) *Form of requests.* (1) Requests under this subpart shall be in writing and must specifically invoke the Act.

(2) A request must reasonably describe the records requested. A request reasonably describes the records requested if it will enable an employee of the Department familiar with the subject area of the request to locate the record with a reasonable amount of effort. If such information is available, the request should identify the subject matter of the record, the date when it was made, the place where it was made, the person or office that made it, the present custodian of the record, and any other information that will assist in locating the requested record. If the request involves a matter known by the requester to be in litigation, the request should also state the case name and court hearing the case.

(3)(i) A request shall—

(A) Specify the fee category (commercial use, news media, educational institution, noncommercial scientific institution, or other) in which the requester claims the request to fall and the basis of this claim (see § 2.20(b)–(e) for definitions) and

(B) State the maximum amount of fees that the requester is willing to pay or include a request for a fee waiver.

(ii) Requesters are advised that, under § 2.20 (f) and (g), the time for responding to requests may be delayed—

(A) If a requester has not sufficiently identified the fee category applicable to the request,

(B) If a requester has not stated a willingness to pay fees as high as anticipated by the Department or

(C) If a fee waiver request is denied and the requester has not included an alternative statement of willingness to pay fees as high as anticipated by the Department.

(4) A request seeking a fee waiver shall, to the extent possible, address why the requester believes that the criteria for fee waivers set out in § 2.21 are met.

(5) To ensure expeditious handling, requests should be prominently marked, both the envelope and on the face of the request, with the legend "FREEDOM OF INFORMATION REQUEST."

(c) *Creation of records.* A request may seek only records that are in existence at the time the request is received. A request may not seek records that come into existence after the date on which it is received and may not require that new records be created in response to the request by, for example, combining or compiling selected items from manual files, preparing a new computer program, or calculating proportions, percentages, frequency distributions, trends or comparisons. In those instances where the Department determines that creating a new record will be less burdensome than disclosing large volumes of unassembled material, the Department may, in its discretion, agree to creation of a new record as an alternative to disclosing existing records.

§ 2.15 Preliminary processing of requests.

(a) *Scope of requests.* (1) Unless a request clearly specifies otherwise, requests to field installations of a bureau may be presumed to seek only records at that installation and requests to a bureau head or bureau FOIA officer may be presumed to seek only records of that bureau.

(2) If a request to a field installation of a bureau specifies that it seeks records located at other installations of the same bureau, the installation shall refer the request to the other installation(s) or the bureau FOIA officer for appropriate processing. The time limit provided in § 2.17(a) does not start until the request is received at the installation having the records or by the bureau FOIA officer.

(3) If a request to a bureau specifies that it seeks records of another bureau, the bureau may return the request (or the relevant portion thereof) to the requester with instructions as to how the request may be resubmitted to the other bureau.

(b) *Intradepartmental consultation and referral.* (1) If a bureau (other than the Office of Inspector General) receives a request for records in its possession that originated with or are of substantial concern to another bureau, it shall consult with that bureau before deciding whether to release or withhold the records.

(2) As an alternative to consultation, a bureau may refer the request (or the relevant protion thereof) to the bureau that originated or is substantially concerned with the records. Such referrals shall be made expeditiously and the requester shall be notified in writing that a referral has been made. A referral under this paragraph does not restart the time limit provided in § 2.17.

(c) *Records of other departments and agencies.* (1) If a requested record in the possession of the Department of the Interior originated with another Federal department or agency, the request shall be referred to that agency unless—

(i) The record is of primary interest to the Department,

(ii) The Department is in a better position than the originating agency to assess whether the record is exempt from disclosure, or

(iii) The originating agency is not subject to the Act.

The Department has primary interest in a record if it was developed or prepared pursuant to Department regulations, directives or request.

(2) In accordance with Executive Order 12356, a request for documents that were classified by another agency shall be referred to that agency.

(d) *Consultation with submitters of commercial and financial information.*

(1) If a request seeks a record containing trade secrets or commercial or financial information submitted by a person outside of the Federal government, the bureau processing the request shall provide the submitter with notice of the request whenever—

(i) The submitter has made a good faith designation of the information as commercially or financially sensitive, or

(ii) The bureau has reason to believe that disclosure of the information may result in commercial or financial injury to the submitter.

Where notification of a voluminous number of submitters is required, such notification may be accomplished by posting or publishing the notice in a place reasonably calculated to accomplish notification.

(2) The notice to the submitter shall afford the submitter a reasonable period within which to provide a detailed statement of any objection to disclosure. The submitter's statement shall explain the basis on which the information is claimed to be exempt under the FOIA, including a specification of any claim of competitive or other business harm that would result from disclosure. The statement shall also include a certification that the information is confidential, has not been disclosed to the public by the submitter, and is not routinely available to the public from other sources.

(3) If a submitter's statement cannot be obtained within the time limit for processing the request under § 2.17, the requester shall be notified of the delay as provided in § 2.17(f).

(4) Notification to a submitter is not required if:

(i) The bureau determines, prior to giving notice, that the request for the record should be denied;

(ii) The information has previously been lawfully published or officially made available to the public;

(iii) Disclosure is required by a statute (other than the FOIA) or regulation (other than this subpart);

(iv) Disclosure is clearly prohibited by a statute, as described in § 2.13(c)(3);

(v) The information was not designated by the submitter as confidential when it was submitted, or a reasonable time thereafter, if the submitter was specifically afforded an opportunity to make such a designation; however, a submitter will be notified of a request for information that was not designated as confidential at the time of submission, or a reasonable time thereafter, if there is substantial reason to believe that disclosure of the information would result in competitive harm.

(vi) The designation of confidentiality made by the submitter is obviously frivolous; or

(vii) The information was submitted to the Department more than 10 years prior to the date of the request, unless the bureau has reason to believe that it continues to be confidential.

(5) If a requester brings suit to compel disclosure of information, the submitter of the information will be promptly notified.

§ 2.16 Action on initial requests.

(a) *Authority.* (1) Requests to field installations shall be decided by the head of the installation or by such higher authority as the head of the bureau may designate in writing.

(2) Requests to the headquarters of a bureau shall be decided only by the head of the bureau or an official whom the head of the bureau has in writing designated.

(3) Requests to the Office of the Secretary may be decided by the Director of Administrative Services, an Assistant Secretary or Assistant Secretary's designee, and any official whom the Secretary has in writing designated.

(4) A decision to withhold a requested record, to release a record that is exempt from disclosure, or to deny a fee waiver shall be made only after consultation with the office of the appropriate associate, regional, or field solicitor.

(b) *Form of grant.* (1) When a requested record has been determined to be available, the official processing the request shall notify the requester as to when and where the record is available for inspection or, as the case may be, when and how copies will be provided. If fees are due, the official shall state the amount of fees due and the procedures for payment, as described in § 2.20.

(2) If a requested record (or portion thereof) is being made available over the objections of a submitter made in accordance with § 2.15(d), both the requester and the submitter shall be notified of the decision. The notice to the submitter (a copy of which shall be made available to the requester) shall be forwarded a reasonable number of days prior to the date on which disclosure is to be made and shall include:

(i) A statement of the reasons why the submitter's objections were not sustained;

(ii) A specification of the portions of the record to be disclosed, if the submitter's objections were sustained in part; and

(iii) A specified disclosure date.

(3) If a claim of confidentiality has been found frivolous in accordance with § 2.15(d)(4)(vi) and a determination is made to release the information without consultation with the submitter, the submitter of the information shall be notified of the decision and the reasons therefor a reasonable number of days prior to the date on which disclosure is to be made.

(c) *Form of denial.* (1) A decision withholding a requested record shall be in writing and shall include:

(i) A reference to the specific exemption or exemptions authorizing the withholding;

(ii) If neither a statute or an Executive order requires withholding, the sound ground for withholding;

(iii) A listing of the names and titles or positions of each person responsible for the denial; and

(iv) A statement that the denial may be appealed to the Assistant Secretary—Policy, Budget and Administration and a description of the procedures in § 2.18 for appeal.

(2) A decision denying a request for failure to reasonably describe requested records or for other procedural deficiency or because requested records cannot be located shall be in writing and shall include:

(i) A description of the basis of the decision;

(ii) A list of the names and titles or positions of each person responsible; and

(iii) A statement that the matter may be appealed to the Assistant Secretary—Policy, Budget and Administration and a description of the procedures in § 2.18 for appeal.

§ 2.17 Time limits for processing initial requests.

(a) *Basic limit.* Requests for records shall be processed promptly. A determination whether to grant or deny a request shall be made within no more than 10 working days after receipt of a request. This determination shall be communicated immediately to the requester.

(b) *Running of basic time limit.* (1) The 10 working day time limit begins to run when a request meeting the requirements of § 2.14(b) is received at a field installation or bureau headquarters designated in § 2.14(a) to receive the request.

(2) The running of the basic time limit may be delayed or tolled as explained in § 2.20 (f), (g) and (h) if a requester—

(i) Has not stated a willingnes to pay fees as high as are anticipated and has not sought and been granted a full fee waiver, or

(ii) Has not made a required advance payment.

(c) *Extensions of time.* In the following unusual circumstances, the time limit for acting on an initial request may be extended to the extent reasonably necessary to the proper processing of the request, but in no case may the time limit be extended for more than 10 working days:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the installation processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Department having substantial subject-matter interest therein.

(d) *Notice of extension.* A requester shall be notified in writing of an extension under paragraph (c) of this section. The notice shall state the reason for the extension and the date on which a determination on the request is expected to be made.

(e) *Treatment of delay as denial.* If no determination has been reached at the end of the 10 working day period for deciding an initial request, or an extension thereof under paragraph (c) of this section, the requester may deem the request denied and may exercise a right of appeal in accordance with § 2.18.

(f) *Notice of delay.* When a determination cannot be reached within the time limit, or extension thereof, the requester shall be notified of the reason for the delay, of the date on which a determination may be expected, and of the right to treat the delay as a denial for purposes of appeal to the Assistant Secretary—Policy, Budget and Administration, including a description of the procedures for filing an appeal in § 2.18.

§ 2.18 Appeals.

(a) *Right of appeal.* A requester may appeal to the Assistant Secretary—Policy, Budget and Administration when—

(1) Records have been withheld,

(2) A request has been denied for failure to describe requested records or for other procedural deficiency or because requested records cannot be located,

(3) A fee waiver has been denied, or

(4) A request has not been decided within the time limits provided in § 2.17.

(b) *Time for appeal.* An appeal must be received no later than 20 working days after the date of the initial denial, in the case of a denial of an entire request, or 20 working days after records have been made available, in the case of a partial denial.

(c) *Form of appeal.* (1) An appeal shall be initiated by filing a written notice of appeal. The notice shall be accompanied by copies of the original request and the initial denial and should, in order to expedite the appellate process and give the requester an opportunity to present his or her arguments, contain a brief statement of the reasons why the requester believes the initial denial to have been in error.

(2) The appeal shall be addressed to the Freedom of Information Act Appeals Officer, Office of the Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.

(3) To expedite processing, both the envelope containing a notice of appeal and the face of the notice should bear the legend "FREEDOM OF INFORMATION APPEAL."

§ 2.19 Action on appeals.

(a) *Authority.* Appeals shall be decided by the Assistant Secretary—Policy, Budget and Administration, or the Assistant Secretary's designee, after consultation with the Solicitor, the Director of Public Affairs and the appropriate program Assistant Secretary.

(b) *Time limit.* A final determination shall be made within 20 working days after receipt of an appeal meeting the requirements of § 2.18(c).

(c) *Extensions of time.* (1) If the time limit for responding to the initial request for a record was not extended under the provisions of § 2.17(c) or was extended for fewer than 10 working days, the time for processing of the appeal may be extended to the extent reasonably necessary to the proper processing of the appeal, but in no event may the extension, when taken together with any extension made during processing of the initial request, result in an aggregate extension with respect to any one request of more than 10 working days. The time for processing of an appeal may be extended only if one or more of the unusual circumstances listed in § 2.17(c) requires an extension.

(2) The appellant shall be advised in writing of the reasons for the extension and the date on which a final determination on the appeal is expected to be dispatched.

(3) If no determination on the appeal has been reached at the end of the 20 working day period, or the extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States, as specified in 5 U.S.C. 552(a)(4). When no determination can be reached within the applicable time limit, the appeal will nevertheless continue to be processed. On expiration of the time limit, the requester shall be informed of the reason for the delay, of the date on which a determination may be reached to be dispatched and of the right to seek judicial review.

(d) *Form of decision.* (1) The final determination on an appeal shall be in writing and shall state the basis for the determination. If the determination is to release the requested records or portions thereof, the Assistant Secretary—Policy, Budget and Administration shall immediately make the records available or instruct the appropriate bureau to make them immediately available. If the determination upholds in whole or part the initial denial of a request for records, the determination shall advise the requester of the right to obtain judicial review in the United States District Court for the district in which the withheld records are located, or in which the requester resides or has his or her principal place of business or in the United States District Court for the District of Columbia, and shall set forth the names and titles or positions of each person responsible for the denial.

(2) If a requested record (or portion thereof) is being made available over the objections of a submitter made in accordance with § 2.15(d), the submitter shall be provided notice as described in § 2.16(b)(2).

§ 2.20 Fees.

(a) *Policy.* (1) Unless waived pursuant to the provisions of § 2.21, fees for responding to FOIA requests shall be charged in accordance with the provisions of this section and the schedule of charges contained in Appendix A to this part.

(2) Fees shall not be charged if the total amount chargeable does not exceed $15.00.

(3) Where there is a reasonable basis to conclude that a requester or group of requesters acting in concert has divided a request into a series of requests on a single subject or related subjects to avoid assessment of fees, the requests may be aggregated and fees charged accordingly.

(b) *Commercial use requests.* (1) A requester seeking records for commercial use shall be charged fees for costs incurred in document search, duplication and review.

(2) A commercial use requester may not be charged fees for time spent resolving legal and policy issues affecting access to requested records.

(3) A commercial use request is a request from or on behalf of a person who seeks information for a use or purpose that further the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. The intended use of records may be determined on the basis of information submitted by a requester and from reasonable inferences based on the identity of the requester and any other available information.

(c) *Educational and noncommercial scientific institution requests.* (1) A requester seeking records under the auspices of an educational institution in furtherance of scholarly research or a noncommercial scientific institution in furtherance of scientific research shall be charged for document duplication, except that the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) shall be provided without charge.

(2) Such requesters may not be charged fees for costs incurred in—

(i) Searching for requested records,

(ii) Examining requested records to determine whether they are exempt from mandatory disclosure,

(iii) Deleting reasonably segregable exempt matter,

(iv) Monitoring the requesters' inspection of agency records, or

(v) Resolving legal and policy issues affecting access to requested records.

(3) An "educational institution" is a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

(4) A "noncommercial scientific institution" is an institution that is not operated for commerce, trade or profit and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(d) *News media requests.* (1) A representative of the new media shall be charged for document duplication, except that the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) shall be provided without charge.

(2) Representatives of the news media may not be charged fees for costs incurred in—

(i) Searching for requested records,

(ii) Examining requested records to determine whether they are exempt from mandatory disclosure,

(iii) Deleting reasonably segregable exempt matter,

(iv) Monitoring the requester's inspection of agency records, or

(v) Resolving legal and policy issues affecting access to requested records.

(3)(i) A "representative of the news media" is any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that is (or would be) of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category.

(ii) Free-lance journalists may be considered "representatives of the news media" if they demonstrate a solid basis for expecting publication through a news organization, even though not actually employed by it. A publication contract or past record of publication, or evidence of a specific free-lance assignment from a news organization may indicate a solid basis for expecting publication.

(e) *Other requests.* (1) A requester not covered by paragraphs (b), (c) or (d) of this section shall be charged fees for document search and duplication, except that the first two hours of search time and the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) shall be provided without charge.

(2) Such requesters may not be charged for costs incurred in—

(i) Examining requested records to determine whether they are exempt from disclosure,

(ii) Deleting reasonably segregable exempt matter,

(iii) Monitoring the requester's inspection of agency records, or

(iv) Resolving legal and policy issues affecting access to requested records.

(f) *Requests for clarification.* Where a request does not provide sufficient information to determine whether it is covered by paragraph (b), (c), (d) or (e) of this section, the requester should be asked to provide additional clarification. If it is necessary to seek such clarification, the request may be deemed to have not been received for purposes of the time limits established in § 2.17 until the clarification is received. Requests to requesters for clarification shall be made promptly.

(g) *Notice of anticipated fees.* Where a request does not state a willingness to pay fees as high as anticipated by the Department, and the requester has not sought and been granted a full waiver of fees under § 2.21, the request may be deemed to have not been received for purposes of the time limits established in § 2.17 until the requester has been notified of and agrees to pay the anticipated fee. Advice to requesters with respect to anticipated fees shall be provided promptly.

(h) *Advance payment.* (1) Where it is anticipated that allowable fees are likely to exceed $250.00 and the requester does not have a history of prompt payment of FOIA fees, the requester may be required to make an advance payment of the entire fee before processing of his or her request.

(2) Where a requester has previously failed to pay a fee within 30 calendar days of the date of billing, processing of any new request from that requester shall ordinarily be suspended until the requester pays any amount still owed, including applicable interest, and makes advance payment of allowable fees anticipated in connection with the new request.

(3) Advance payment of fees may not be required except as described in paragraphs (h) (1) and (2) of this section.

(4) Issuance of a notice requiring payment of overdue fees or advance payment shall toll the time limit in § 2.17 until receipt of payment.

(i) *Form of payment.* Payment of fees should be made by check or money order payable to the Department of the Interior or the bureau furnishing the information. The term United States or the initials "U.S." should not be included on the check or money order. Where appropriate, the official responsible for handling a request may require that payment by check be made in the form of a certified check.

(j) *Billing procedures.* A bill for collection, Form DI–1040, shall be prepared for each request that requires collection of fees. The requester shall be provided the first sheet of the DI–1040. This Accounting Copy of the Form shall be transmitted to the agency's finance office for entry into accounts receivable records. Upon receipt of payment from the requester, the recipient shall forward the payment along with a copy of the DI–1040 to the finance office.

(k) *Collection of fees.* The bill for collection or an accompanying letter to the requester shall include a statement that interest will be charged in accordance with the Debt Collection Act of 1982, 31 U.S.C. 3717, and implementing regulations, 4 CFR 102.13, if the fees are not paid within 30 calendar days of the date of the bill for collection is mailed or hand-delivered to the requester. This requirement does not apply if the requester is a unit of state or local government. Other authorities of the Debt Collection Act of 1982 shall be used, as appropriate, to collect the fees (see 4 CFR Parts 101–105).

§ 2.21 Waiver of fees.

(a) *Statutory fee waiver.* (1) Documents shall be furnished without charge or at a charge reduced below the fees chargeable under § 2.20 and Appendix A if disclosure of the information is in the public interest because it—

(i) Is likely to contribute significantly to public understanding of the operations or activities of the government and

(ii) Is not primarily in the commercial interest of the requester.

(2) Factors to be considered in determining whether disclosure of information "is likely to contribute significantly to public understanding of the operations or activities of the government" are the following:

(i) Does the record concern *the operations or activities of the government?* Records concern the operations or activities of the government if they relate to or will illuminate the manner in which the Department or a bureau is carrying out identifiable operations or activities or the manner in which an operation or activity affects the public. The connection between the records and the operations and activities to which they are said to relate should be clear and direct, not remote and attenuated. Records developed outside of the government and submitted to or obtained by the Department may relate to the operations and activities of the government if they are informative on how an agency is carrying out its regulatory, enforcement, procurement or other activities that involve private entities.

(ii) If a record concerns the operations or activities of the government, is its disclosure *likely to contribute to public understanding* of these operations and activities? The likelihood of a contribution to public understanding will depend on consideration of the content of the record, the identity of the requester, and the interrelationship between the two. Is there a logical connection between the content of the requested record and the operations or activities in which the requester is interested? Are the disclosable contents of the record meaningfully informative on the operations or activities? Is the focus of the requester on contribution to public understanding, rather than on the individual understanding of the requester or a narrow segment of interested persons? Does the requester have expertise in the subject area and the ability and intention to disseminate the information to the general public or otherwise use the information in a manner that will contribute to public understanding of government operations or activities? Is the requested information sought by the requester because it may be informative on government operations or activities or because of the intrinsic value of the information independent of the light that it may shed on government operations or activities?

(iii) If there is likely to be a contribution to public understanding, will that contribution be *significant*? A contribution to public understanding will be significant if the information disclosed is new, clearly supports public oversight of Department operations, including the quality of Department activities and the effect of policy and regulations on public health and safety, or otherwise confirms or clarifies data on past or present operations of the Department. A contribution will not be significant if disclosure will not have a positive impact on the level of public understanding of the operations or activities involved that existed prior to the disclosure. In particular, a significant contribution is not likely to arise from disclosure of information already in the public domain because it has, for example, previously been published or is routinely available to the general public in a public reading room.

(3) Factors to be considered in determining whether disclosure "is primarily in the commercial interest of the requester" are the following:

(i) Does the requester have a *commercial interest* that would be furthered by the requested disclosure? A commercial interest is a commercial, trade or profit interest as these terms are commonly understood. An entity's status is not determinative. Not only profit-making corporations, but also individuals or other organizations, may have a commercial interest to be served by disclosure, depending on the circumstances involved.

(ii) If the requester has a commercial interest, will disclosure be *primarily* in that interest? The requester's commercial interest is the primary interest if the magnitude of that interest is greater than the public interest to be served by disclosure. Where a requester is a representative of a news media organization seeking information as part of the news gathering process, it may be presumed that the public interest outweighs the organization's commercial interest.

(4) *Notice of denial.* If a requested statutory fee waiver or reduction is denied, the requester shall be notified in writing. The notice shall include:

(i) A statement of the basis on which the waiver or reduction has been denied.

(ii) A listing of the names and titles or positions of each person responsible for the denial.

(iii) A statement that the denial may be appealed to the Assistant Secretary—Policy, Budget and Administration and a description of the procedures in § 2.18 for appeal.

(b) *Discretionary waivers.* Fees otherwise chargeable may be waived at the discretion of a bureau if a request involves:

(1) Furnishing unauthenticated copies of documents reproduced for gratuitous distribution;

(2) Furnishing one copy of a personal document (e.g., a birth certificate) to a person who has been required to furnish it for retention by the Department;

(3) Furnishing one copy of the transcript of a hearing before a hearing officer in a grievance or similar proceeding to the employee for whom the hearing was held.

(4) Furnishing records to donors with respect to their gifts;

(5) Furnishing records to individuals or private non-profit organizations

having an official voluntary or cooperative relationship with the Department to assist the individual or organization in its work with the Department;

(6) Furnishing records to state, local and foreign governments, public international organizations, and Indian tribes, when to do so without charge is an appropriate courtesy, or when the recipient is carrying on a function related to that of the Department and to do so will help to accomplish the work of the Department;

(7) Furnishing a record when to do so saves costs and yields income equal to the direct cost of providing the records (e.g., where the Department's fee for the service would be included in a billing against the Department);

(8) Furnishing records when to do so is in conformance with generally established business custom (e.g., furnishing personal reference data to prospective employers of former Department employees);

(9) Furnishing one copy of a record in order to assist the requester to obtain financial benefits to which he or she is entitled (e.g., veterans or their dependents, employees with Government employee compensation claims or persons insured by the Government).

§ 2.22 Special rules governing certain information concerning coal obtained under the Mineral Leasing Act.

(a) *Definitions.* As used in the section:

(1) "Act" means the Mineral Leasing Act of February 25, 1920, as amended by the Act of August 4, 1976, Pub. L. 94-377, 90 Stat. 1083 (30 U.S.C. 181 *et seq.*), and the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351 *et seq.*)

(2) "Exploration license" means a license issued by the Secretary of the Interior to conduct coal exploration operations on land subject to the Act pursuant to the authority in section 2(b) of the Act, as amended (30 U.S.C. 201(b)).

(3) "Fair-market value of coal to be leased" means the minimum amount of a bid the Secretary has determined he is willing to accept in leasing coal within leasing tracts offered in general lease sales or reserved and offered for lease to public bodies, including Federal agencies, rural electric cooperatives, or non-profit corporations, controlled by any of such entities pursuant to section 2(a) of the Act (30 U.S.C. 201(a)(1)).

(4) "Information" means data, statistics, samples and other facts, whether analyzed or processed or not, pertaining to Federal coal resources, which fit within an exemption to the Freedom of Information Act, 5 U.S.C. 552(b).

(b) *Applicability.* This section applies to the following categories of information:

(1) *Category A.* Information provided to or obtained by a bureau under section 2(b)[3] of the Act from the holder of an exploration license;

(2) *Category B.* Information acquired from commercial or other sources under service contract with Geological Survey pursuant to section 8A(b) of the Act, and information developed by the Geological Survey under an exploratory program authorized by section 8A of the Act;

(3) *Category C.* Information obtained from commercial sources which the commercial source acquired while not under contract with the United States Government;

(4) *Category D.* Information provided to the Secretary by a federal department or agency pursuant to section 8A(e) of the Act; and

(5) *Category E.* The fair-market value of coal to be leased and comments received by the Secretary with respect to such value.

(c) *Availability of information.* Information obtained by the Department from various sources will be made available to the public as follows:

(1) *Category A—Information.* Category A information shall not be disclosed to the public until after the areas to which the information pertains have been leased by the Department, or until the Secretary determines that release of the information to the public would not damage the competitive position of the holder of the exploration license, whichever comes first.

(2) *Category B—Information.* Category B information shall not be withheld from the public; it will be made available by means of and at the time of open filing or publication by Geological Survey.

(3) *Category C—Information.* Category C information shall not be made available to the public until after the areas to which the information pertains have been leased by the Department.

(4) *Category D—Information.* Category D information shall be made available to the public under the terms and conditions to which, at the time he or she acquired it, the head of the department or agency from whom the Secretary later obtained the information agreed.

(5) *Category E—Information.* Category E information shall not be made public until the lands to which the information pertains have been leased, or until the Secretary has determined that its release prior to the issuance of a lease is in the public interest.

4. Appendices A and B to 43 CFR Part 2 are revised as follows:

Appendix A—Fees

The following uniform fee schedule is applicable to all constituent units of the Department. It states the fees to be charged to members of the public for services performed in searching for, reviewing and duplicating requested records in connection with FOIA requests made under Subpart B of this part and to services performed in making documents available for inspection and copying under Subpart A of this part. The duplicating fees stated in the schedule are also applicable to duplicating of records in response to requests made under the Privacy Act. The schedule also states the fee to be charged for certification of documents.

(1) *Copies, basic fee.* For copies of documents reproduced on a standard office copying machine in sizes to 8½" x 14", the charge will be $0.13 per page.

Examples: For one copy of a three-page document, the fee would be $0.39. For two copies of a three-page document, the fee would be $0.78. For one copy of a 60-page document, the fee would be $7.80.

(2) *Copies, documents requiring special handling.* For copies of documents which require special handling because of their age, size, etc., cost will be based on direct costs of reproducting the materials.

(3)-(4) [Reserved]

(5) *Searches.* For each quarter hour, or portion thereof, spent by clerical personnel in manual searches to locate requested records: $2.30. For each quarter hour, or portion thereof, spent by professional or managerial personnel in manual searches to locate requested records because the search cannot be performed by clerical personnel: $4.65.

Search time for which fees may be charged includes all time spent looking for material that is responsive to a request, including line-by-line or page-by-page search to determine whether a record is responsive, even if the search fails to locate records or the records located are determined to be exempt from disclosure. Searches will be conducted in the most efficient and least expensive manner, so as to minimize costs for both the agency and the requester. Line-by-line or page-by-page identification should not be necessary if it is clear on the face of a document that it is covered by a request.

(6) *Review of records.* For each quarter hour, or portion thereof, spent by clerical personnel in reviewing records: $2.30. For each quarter hour, or portion thereof, spent by professional or managerial personnel in reviewing records: $4.65.

Review is the examination of documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld and the subsequent processing of documents for disclosure by excising exempt material or otherwise preparing them for release. Review does not include time spent in resolving general legal or policy issues regarding the application of exemptions.

(7) [Reserved]

(8) *Certification.* For each certificate of verification attached to authenticated copies of records furnished to the public the charge will be $0.25.

(9) [Reserved]

(10) *Computerized records.* Charges for services in processing requests for records maintained in computerized form will be calculated in accordance with the following criteria:

(a) Costs for processing a data request will be calculated using the same standard direct costs charged to other users of the facility, and/or as specified in the user's manual or handbook published by the computer center in which the work will be performed.

(b) An itemized listing of operations required to process the job will be prepared (i.e., time for central processing unit, input/output, remote terminal, storage, plotters, printing, tape/disc mounting, etc.) with related associated costs applicable to each operation.

(c) Material costs (i.e., paper, disks, tape, etc.) will be calculated using the latest acquisition price paid by the facility.

(d) ADP facility managers must assure that all cost estimates are accurate, and if challenged, be prepared to substantiate that the rates are not higher than those charged to other users of the facility for similar work. Upon request, itemized listings of operations and associated costs for processing the job may be furnished to members of the public.

(e) Requesters entitled to two hours of free search time under 43 CFR 2.20(e) shall not be charged for that portion of a computer search that equals two hours of the salary of the operator performing the search.

(11) *Postage/mailing costs.* Mailing charges may be added for services (such as express mail) that exceed the cost of first class postage.

(12)–(13) [Reserved]

(14) *Other services.* When a response to a request requires services or materials other than those described in this schedule, the direct cost of such services or materials to the Government may be charged, but only if the requester has been notified of such cost before it is incurred.

(15) *Effective date.* This schedule applies to all requestes made under the Freedom of Information Act and Privacy Act after December 30, 1987.

Appendix B—Bureaus and Offices of the Department of the Interior

1. *Bureaus and Offices of the Department of the Interior.* (The address for all bureaus and offices, unless otherwise indicated, is U.S. Department of the Interior, Washington, DC 20240.)

Secretary of the Interior, Office of the Secretary
Office of Administrtative Services (for Office of the Secretary components)
Assistant Secretary, Territorial and International Affairs
Commissioner, Bureau of Indian Affairs
Director, U.S. Fish and Wildlife Service
Director, National Park Service, P.O. Box 37127, Washington, DC, 20013–7127
Commissioner, Bureau of Reclamation
Director, Bureau of Land Management
Director, Minerals Management Service
Director, Bureau of Mines, Columbia Plaza, 2401 E Street NW., Washington, DC 20241
Director, Geological Survey, The National Center, Reston, VA 22092
Director, Office of Surface Mining Reclamation and Enforcement
Director, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Inspector General, Office of Inspector General
Solicitor, Office of the Solicitor

2. *Freedom of Information Officers of the Department of the Interior.* (The address for all Freedom of Information Officers, unless otherwise indicated, is U.S. Department of the Interior, Washington, DC 20240.)

Director, Office of Administrative Services (for Office of the Secretary components), U.S. Department of the Interior
Director, Office of Administration, Bureau of Indian Affairs
Freedom of Information Act Officer, Bureau of Land Management
Assistant Director, Finance and Management, Bureau of Mines, Columbia Plaza, 2401 E Street NW., Washington, DC 20241
Freedom of Information Act Officer, Bureau of Reclamation
Chief, Division of Media Information, National Park Service
Chief, Regulatory Development and Issues Management, Office of Surface Mining Reclamation and Enforcement
Chief, Directives Management Branch, Policy and Directives Management, U.S. Fish and Wildlife Service,
Chief, Paperwork Management Unit, U.S. Geological Survey, The National Center, Reston, VA 22092
Freedom of Information Act Officer, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, VA 22091
Information Officer, Office of Inspector General

3. *Office of Hearings and Appeals*—Field Offices:

Administrative Law Judge, 1052C Federal Bldg., 600 Federal Place, Louisville, KY 40202
Administrative Law Judge, 1111 Northshore Drive, Suite 202, Bldg. #1, Knoxville, TN 37919
Administrative Law Judges, 6432 Federal Bldg., Salt Lake City, UT 84138
Administrative Law Judge (Indian Probate), Federal Bldg., Rm. 3427, 230 N. First Ave., Phoenix, AZ 85025
Administrative Law Judge (Indian Probate), 2020 Hurley Way, Suite 150, Sacramento, CA 95825
Administrative Law Judges (Indian Probate), Federal Building, Rooms 674 and 688, Fort Snelling, Twin Cities, MN 55111
Administrative Law Judge (Indian Probate), 421 Gold SW., Rm. 303, Albuquerque, NM 87102
Administrative Law Judge (Indian Probate), 215 Dean A. McGee Ave., Rm. 712, Oklahoma City, OK 73102
Administrative Law Judge (Indian Probate), 1425 NE., Irving St., Bldg. 100, Suite 112, Portland, OR 97232
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, 515 9th St., Suite 201, Rapid City, SD 57701
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, Rm. 3329, 316 N. 26th St., Billings, MT 59101

4. *Office of the Solicitor*—Field Offices.

Regional Solicitors:

Regional Solicitor, U.S. Department of the Interior, 701 C Street, Anchorage, AK 99513
Regional Solicitor, U.S. Department of the Interior, Room E–2753, 2800 Cottage Way, Sacramento, CA 95825
Regional Solicitor, U.S. Department of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225
Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Federal Building, 75 Spring Street, SW., Suite 1328, Atlanta, GA 30303
Regional Solicitor, U.S. Department of the Interior, Suite 612, One Gateway Center, Newton Corner, MA 02158
Regional Solicitor, U.S. Department of the Interior, Room 3068, Page Belcher Federal Building, 333 West 4th Street, Tulsa, OK 74103
Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah, Portland, OR 97232
Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, UT 84138

Field Solicitors:

Field Solicitor, U.S. Department of the Interior, Suite 150, 505 North Second St., Phoenix, AZ 85004
Field Solicitor, U.S. Department of the Interior, P.O. Box M, Window Rock, AZ 86515
Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Room 14126, San Francisco, CA 94102
Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, ID 83724
Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Twin Cities, MN 55111
Field Solicitor, U.S. Department of the Interior, Room 5431, Federal Building, 316 N. 26th Street, Billings, MT 59101
Field Solicitor, U.S. Department of the Interior, P.O. Box 1042, Santa Fe, NM 87504
Field Solicitor, U.S. Department of the Interior, Osage Agency, Grandview Avenue, Pawhuska, OK 74056
Field Solicitor, U.S. Department of the Interior, Suite 502J, U.S. Post Office and Courthouse, Pittsburgh, PA 15219
Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, TN 37901
Field Solicitor, U.S. Department of the Interior, 1100 South Fillmore, Amarillo, TX 79101
Field Solicitor, U.S. Department of the Interior, 603 Morris Street, 2nd Floor, Charleston, WV 25301.

Joseph W. Gorrell,

Principal Deputy Assistant Secretary, Policy, Budget and Administration.

Date: November 3, 1987.

[FR Doc. 87–27372 Filed 11–27–87; 8:45 am]

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Monday
November 30, 1987

Part VI

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 300

Incorporation by Reference; Plant Protection and Quarantine Treatment Manual; Interim Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 300

[Docket No. 87-127]

Incorporation by Reference; Plant Protection and Quarantine Treatment Manual

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Plant Protection and Quarantine regulations to give notice that we have revised the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual) by including a hot water dip as an acceptable treatment procedure for the Carrot variety and certain other varieties of mangoes from Haiti. The PPQ Treatment Manual is incorporated by reference in the regulations at 7 CFR 300.1.

DATES: Interim rule effective November 30, 1987. Consideration will be given only to comments postmarked or received on or before December 30, 1987.

FOR FURTHER INFORMATION CONTACT: E. Elliott Crooks, Operations Officer, Port Operations Staff, PPQ, APHIS, USDA, Room 601, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8249.

SUPPLEMENTARY INFORMATION:

Background

Chapter III of Title 7, Code of Federal Regulations (regulations), contains the regulations of Plant Protection and Quarantine (PPQ) of the Animal and Plant Health Inspection Service. Section 300.1 of the regulations incorporates by reference the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual). The PPQ Treatment Manual contains procedures and schedules for treating various regulated articles so that these articles may move into or within the United States and not present a plant pest risk.

Mangoes from Haiti must be treated for species of fruit flies, *Anastrepha obliqua* and *A. suspensa*, before being imported into the United States. Until the publication of this document, the PPQ Treatment Manual contained ethylene dibromide (EDB) fumigation as an acceptable treatment for these mangoes, and a hot water dip as an acceptable treatment for the Francis variety of Haitian mangoes. The hot water dip is still an acceptable treatment. However, since midnight, September 30, 1987, EDB can no longer be used as a treatment for mangoes from foreign countries, including Haiti.

Recent research indicates that a hot water dip treatment destroys fruit flies of: (a) The Carrot variety of Haitian mangoes infested with *A. obliqua* and *A. suspensa*, and (b) any other variety of Haitian mangoes infested with *A. obliqua* and *A. suspensa* if the mangoes are smaller than size 10 with a pulp depth less than size 10 Francis.

We must update the PPQ Treatment Manual to include these treatments on an emergency basis for reasons set forth below. Therefore, this document amends § 300.1 of the regulations to show that the PPQ Treatment Manual, which is incorporated by reference and on file at the Office of the Federal Register, has been revised to include a hot water dip as an acceptable treatment for the Carrot variety and certain other varieties of mangoes from Haiti.

Emergency Action

Donald L. Houston, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. EDB can no longer be used as a treatment for mangoes, since midnight, September 30, 1987. It is necessary, as an emergency measure, to amend the PPQ Treatment Manual to include the hot water dip treatment for the varieties of mangoes listed above in order to continue the importation of mangoes from Haiti. The continued importation of mangoes can be assured only if this interim rule is published and made effective as soon as possible. Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under this emergency situation, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon publication in the **Federal Register**. We will consider comments on this interim rule that are postmarked or received within 60 days of publication. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3105 Subpart V.)

List of Subjects in 7 CFR Part 300

Incorporation by reference, Plant diseases, Plant pests.

Accordingly, Title 7, Chapter III is amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for Part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 161.

2. Section 300.1, Paragraph (a) is revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was reprinted May 1985, and includes all revisions issued through November 1987, has been approved for incorporation by reference in 7 CFR Chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

* * * * *

Done in Washington, DC, this 25th day of November 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-27603 Filed 11-27-87; 9:00 am]

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CFR CHECKLIST

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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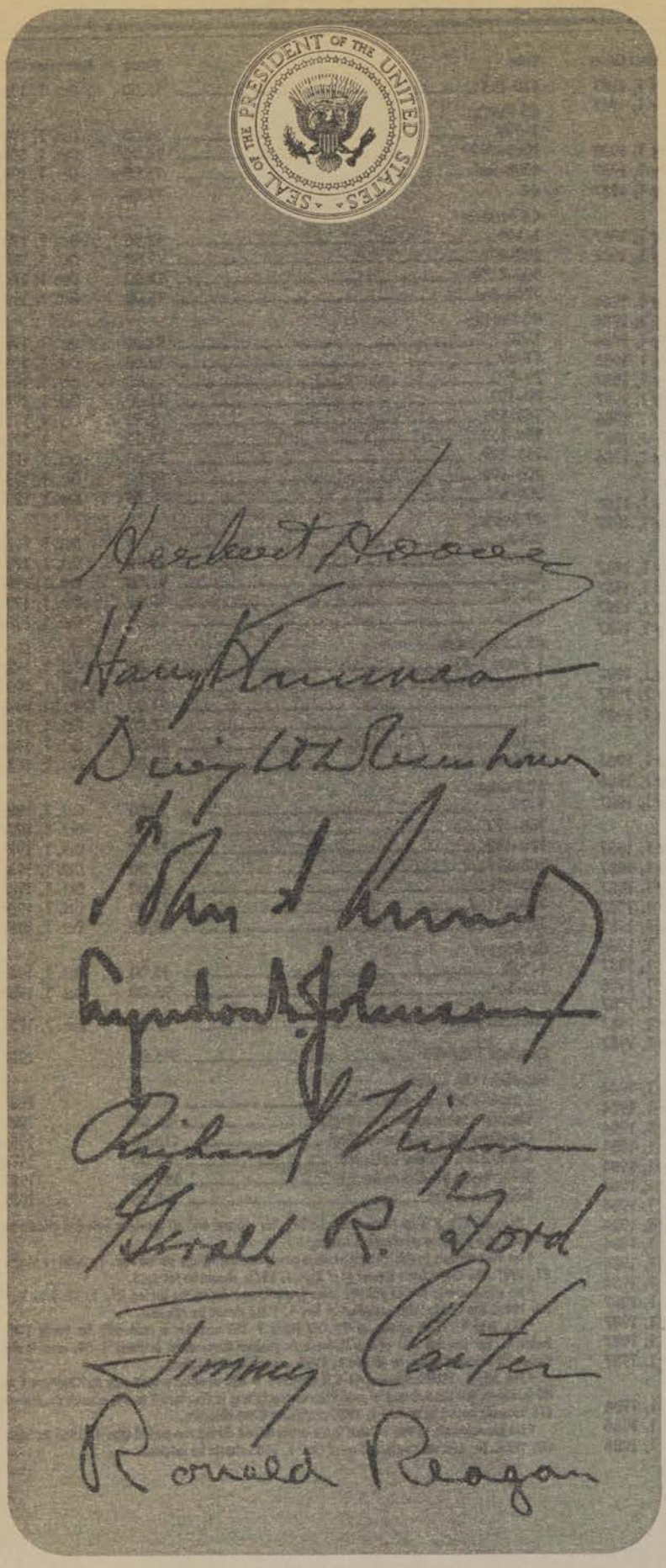

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